

CHAPTER 40 APPLICATIONS

[ORD 4224; September 2002]

40.03. FACILITIES REVIEW COMMITTEE

Consistent with Section 10.95.4 (Facilities Review Committee) of this Code, the Facilities Review Committee shall review all Type 2, Type 3, and Type 4 applications listed in Chapter 40 (Applications). In the case of Non-Discretionary Annexation Related Zoning Map Amendments and Discretionary Annexation Zoning Map Amendments processed by the City, review by the Facilities Review Committee shall not be required. The purpose of the Facilities Review Committee is to review the technical aspects of Type 2, Type 3, and Type 4 applications. The Facilities Review Committee shall provide the necessary recommendations concerning technical aspects of the proposal to the Director. In making a recommendation on a proposal, the Facilities Review Committee shall base its recommendation on all the following technical criteria. All of these criteria shall be addressed at time of application by an applicant for development for conformity to Section 50.25.1.B: [ORD 4265; September 2003]

1. All critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion.
2. Essential facilities and services are available or can be made available prior to occupancy of the development. In lieu of providing essential facilities and services, a specific plan strategy may be submitted that demonstrates how these facilities, services, or both will be provided within five years of occupancy.
3. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.
4. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.

40.03.

5. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas: drainage ditches, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas and other facilities, not subject to periodic maintenance by the City or other public agency.
6. There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the site.
7. The on-site vehicular and pedestrian circulation system connects to the surrounding circulation system in a safe, efficient, and direct manner.
8. Structures and public facilities and services serving the site are designed in accordance with adopted City codes and standards at a level which will provide adequate fire protection, including, but not limited to, fire flow, and protection from crime and accident, as well as protection from hazardous conditions due to inadequate, substandard or ill-designed development.
9. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.
10. That access and facilities for physically handicapped people are incorporated into the site and building design, with particular attention to providing continuous, uninterrupted access routes.
11. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]

40.05. ACCESSORY DWELLING UNIT

40.05.05. Purpose.

The purpose of an Accessory Dwelling Unit application is to provide a mechanism to allow accessory dwelling units. Accessory dwelling units are normal, incidental and subordinate to a detached dwelling. This Section is carried out by the approval criteria listed herein.

40.05.10. Applicability.

An Accessory Dwelling Unit application may be requested for a property with a detached dwelling as the principal use in any zoning district that allows accessory dwelling units.

40.05.15. Application.

There is a single Accessory Dwelling Unit application which is subject to the following requirements.

1. Accessory Dwelling Unit.

- A. Threshold. An application for Accessory Dwelling Unit shall be required when the following threshold applies:
 - 1. An accessory dwelling unit is proposed to be added to a property.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Accessory Dwelling Unit. The decision making authority is the Director.
- C. Approval Criteria. In order to approve an Accessory Dwelling Unit application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for an Accessory Dwelling Unit application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.05.15.1.C.

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
4. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
5. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Regulations) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
6. There is only one detached dwelling on the subject site.
7. The proposed accessory dwelling unit is no more than fifty percent (50%) of the gross floor area of the primary detached dwelling or 800 square feet, whichever is less.
8. The proposal is not located over any easement.
9. The exterior finish materials of the proposal is the same as the detached dwelling in terms of type, size, placement, and finish.
10. The roof pitch of the proposal matches the roof pitch of the detached dwelling.
11. The trim of the proposal is the same as the detached dwelling in type, size, location, and finish.
12. The windows of the proposal match those on the detached dwelling in terms of proportion (height to width ratio) and orientation (vertical vs. horizontal).
13. The eaves of the proposal project the same distance as the eaves on the detached dwelling.

40.05.15.1.C.

14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for an Accessory Dwelling Unit shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Accessory Dwelling Unit application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of an Accessory Dwelling Unit application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.10. ADJUSTMENT**40.10.05. Purpose.**

The purpose of an Adjustment application is to provide a mechanism by which certain regulations in this Code may be adjusted if the proposed development continues to meet the intended purpose of such regulations. This Section is carried out by the approval criteria listed herein.

40.10.10. Applicability.

An Adjustment may be requested only for numerical Site Development Requirements contained in Chapter 20 (Land Uses) and for Major Pedestrian Route Standards in the Regional Center zoning districts and the South Tektronix Station Community.

40.10.15. Application.

There are four (4) Adjustment applications which are as follows: Minor Adjustment, Minor Adjustment - All Regional Center zones and South Tektronix Station Community, Major Adjustment, and Major Adjustment - All Regional Center zones and in the South Tektronix Station Community.

1. Minor Adjustment.

A. Threshold. An application for Minor Adjustment shall be required when one or more of the following thresholds apply:

1. Involves up to and including a 10% adjustment from the numerical Site Development Requirements specified in Chapter 20 (Land Uses).
2. Involves up to and including a 10% adjustment from the numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.D.3 of this Code.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Minor Adjustment. The decision making authority is the Director.

40.10.15.1.

- C. Approval Criteria. In order to approve a Minor Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Minor Adjustment application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Special conditions exist which are unique to the land, structure, or building involved.
 4. Granting the adjustment will result in a project that equally or better meets the regulation to be modified.
 5. Granting the adjustment as part of the overall project will not obstruct pedestrian or vehicular movement.
 6. The adjustment will allow City designated scenic resources and historic resources, if present, to be preserved.
 7. If more than one (1) Minor Adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the applicable zone.
 8. Any Minor Adjustment granted shall be the minimum that will make possible a reasonable use of land, building, and structures.
 9. The proposal incorporates building, structure, or site design features or some combination thereof which compensate for adjusting the Site Development Requirement.
 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.10.15.1.

- D. Submission Requirements. An application for a Minor Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Minor Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Minor Adjustment application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.10.15.

2. Minor Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes.

- A. Threshold. An application for Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes shall be required when the following threshold applies:
1. Involves an adjustment of up to and including 25% of numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.B.3 or Section 20.20.60.E.3 of this Code.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Granting the adjustment will equally or better meet the purpose of the District subarea requirement, standard or regulation to be modified.
 4. The proposal will be consistent with the desired character of the area.

40.10.15.2.C.

5. If more than one (1) adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the zone.
6. City-designated scenic resources and historic resources, if present, are preserved.
7. Any impacts resulting from the adjustment are mitigated to the extent practical.
8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for a Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.10.15.

3. Major Adjustment.

- A. Threshold. An application for Major Adjustment shall be required when one or more of the following thresholds apply:
1. Involves an adjustment of more than 10% and up to and including 50% adjustment from the numerical Site Development Requirement specified in Chapter 20 (Land Uses).
 2. Involves an adjustment of more than 10% and up to and including 50% adjustment from the numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.D.3 of this Code.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Major Adjustment. Upon determination by the Director, the decision making authority will be either the Planning Commission or the Board of Design Review. The determination will be based upon the characteristics of the proposal and any other associated applications.
- C. Approval Criteria. In order to approve a Major Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Major Adjustment application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Special conditions exist which are unique to the land, structure, or building involved.
 4. Granting the Major Adjustment will result in a project that equally or better meets the regulation to be modified.
 5. Granting the adjustment will not obstruct pedestrian or vehicular movement.

40.10.15.3.C.

6. The Major Adjustment will allow City designated scenic resources and historic resources, if present, to be preserved.
7. If more than one (1) Major Adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the applicable zone.
8. Any Major Adjustment granted shall be the minimum adjustment that will make possible a reasonable use of land, building, and structures.
9. The proposal incorporates building, structure, or site design features which compensate for adjusting the Site Development Requirement.
10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for a Major Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Major Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Major Adjustment application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.10.15.

4. Major Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes

- A. Threshold. An application for Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes shall be required when one or more of the following thresholds apply:
1. Involves an adjustment of more than 25% to a numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.B.3 or 20.20.60.E.3.
 2. Involves an adjustment to a non-numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.B.3 or Section 20.20.60.E.3.
 3. Involves multiple Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes applications.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes. Upon determination by the Director, the decision making authority will be either the Planning Commission or the Board of Design Review. The determination will be based upon the nature and characteristics of the proposal.
- C. Approval Criteria. In order to approve a Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.10.15.4.C.

3. Granting the adjustment will equally or better meet the purpose of the District subarea requirement, standard or regulation to be modified.
4. The proposal will be consistent with the desired character of the area.
5. If more than one (1) adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.
6. City-designated scenic resources and historic resources are preserved.
7. Any impacts resulting from the adjustment are mitigated to the extent practical.
8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.70.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

40.15. CONDITIONAL USE**40.15.05. Purpose.**

The purpose of a Conditional Use application is to allow uses on a case by case basis which warrant special review because of their size or operation. These uses are subject to the conditional use regulations because they may, but do not necessarily, cause significant adverse effects on the environment, overburden public services, change the character of an area, create or foster nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts these uses may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose conditions specifying mitigation measures to address identified impacts, or to deny the use if the impacts are substantial and the impacts cannot be mitigated. A Preliminary, Final, or both Planned Unit Development approval may allow adjustment, variance, or both to Site Development Requirements in Chapter 20 (Land Uses) without the necessity for separate Adjustment or Variance application, findings, and approvals. This Section is carried out by the approval criteria listed herein.

40.15.10. Applicability.

The uses listed in Chapter 20 (Land Uses) for each zoning district as a Conditional Use shall be subject to the provisions of this section.

40.15.15. Application.

There are six (6) conditional use applications which are as follows: Minor Modification of a Conditional Use, Major Modification of a Conditional Use, Administrative Conditional Use, New Conditional Use, Preliminary Planned Unit Development, and Final Planned Unit Development.

1. Minor Modification of a Conditional Use.

A. Threshold. An application for Minor Modification of a Conditional Use shall be required when one or more of the following thresholds apply:

1. An increase in the gross floor area of a conditional use up to and including 10% and less than 1,000 gross square feet of floor area for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.

40.15.15.1.A.

2. A projected or actual increase in vehicular traffic to and from a site approved for a conditional use of up to and including 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Minor Modification of a Conditional Use. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Minor Modification of a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Minor Modification of a Conditional Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal complies with conditions of an applicable conditional use approval.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.1.

- D. Submission Requirements. An application for a Minor Modification of a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Minor Modification of a Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Minor Modification of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

2. Major Modification of a Conditional Use.

- A. Threshold. An application for Major Modification of a Conditional Use shall be required when one or more of the following thresholds apply:
1. Any increase in the gross floor area of a conditional use on properties located in a residential zoning district or within a distance of up to and including 50 feet of a residential zoning district.
 2. An increase in the gross floor area of a conditional use by more than 10% or in excess of 1,000 gross square feet of floor area for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
 3. Any projected or actual increase in vehicle trips per day to and from a site approved for a conditional use as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are located in a residential zoning district or are located at a distance of up to and including 50 feet from a residential zoning district.
 4. A projected increase in vehicular traffic to and from a site approved for a conditional use of more than 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
 5. Modification of one or more conditions of approval which apply to an approved Conditional Use.
 6. Any increase in the number of dwellings or residential lots.

40.15.15.2.

- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Major Modification of a Conditional Use. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Major Modification of a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Major Modification of a Conditional Use application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The proposal complies with the applicable policies of the Comprehensive Plan.
 - 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 - 5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 - 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.2.

- D. Submission Requirements. An application for a Major Modification of a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Major Modification of a Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Major Modification of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

3. Administrative Conditional Use.

A. Threshold. An application for Administrative Conditional Use shall be required when one or more of the following thresholds apply:

1. Placement of one or more portable classroom on a public or private school site.

[ORD 4332; November 2004]

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Administrative Conditional Use. The decision making authority is the Director.

C. Approval Criteria. In order to approve an Administrative Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for an Administrative Conditional Use application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal complies with conditions of an applicable conditional use approval.
4. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability of properties adjoining the subject site.
5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.3.

- D. Submission Requirements. An application for a Administrative Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Administrative Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Administrative Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

4. Conditional Use.

- A. Threshold. An application for Conditional Use shall be required when the following threshold applies:
1. A new conditional use is proposed.
- [ORD 4332; November 2004]
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Conditional Use. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Conditional Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal will comply with the applicable policies of the Comprehensive Plan.
 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.4.

- D. Submission Requirements. An application for a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

5. Preliminary Planned Unit Development.

- A. Threshold. A Preliminary Planned Unit Development (PUD) application is an optional application process which may be chosen by the applicant. A Preliminary PUD application is the first application of a two-step application process with a Final PUD application as the second step. A Preliminary PUD is a plan that generally demonstrates the ultimate development of a project. A Preliminary PUD may be applied to properties within any City zoning district except Residential-Agricultural (RA).
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Preliminary PUD. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Preliminary PUD application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary PUD application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal meets the Site Development Requirement for setbacks within the applicable zoning district for the perimeter of the parent parcel unless the setbacks are approved as an Adjustment, Flexible Setback or Variance which shall be considered concurrently with the subject proposal.
 4. The proposal will comply with the applicable policies of the Comprehensive Plan.
 5. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.

40.15.15.5.C.

6. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 7. Lessening the Site Development Requirements results in benefits to the site, building, and structural design or preservation of natural features that could otherwise not be achieved.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Preliminary PUD shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary PUD application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary PUD application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. The decision shall expire two (2) years after of the date of decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

6. Final Planned Unit Development

- A. Threshold. A Final Planned Unit Development (PUD) application is the second application of a two-step application process with a Preliminary PUD as the first step. A Final PUD application may also be a one-step application process which is an alternative to the two-step process required when an applicant chooses to apply for a Preliminary PUD. The option of a one-step or two-step process rests with the applicant. The requirements for a Final PUD may be applied to properties within any City zoning district except Residential-Agricultural.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Final PUD approval. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Final PUD application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Final PUD application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. If a Preliminary PUD has been approved, the Final PUD is filed within two (2) years or the Preliminary PUD has received an extension approval pursuant to Section 50.93 of this Code.
 4. The final PUD complies with the approved Preliminary PUD, if any.
 5. The proposal meets the Site Development Requirement for setbacks within the applicable zoning district for the perimeter of the parent parcel unless the setbacks are approved as an Adjustment, Flexible Setback or Variance which shall be considered concurrently with the subject proposal.

40.15.15.6.C.

6. The proposal complies with the applicable policies of the Comprehensive Plan.
7. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
8. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
9. The lessening of the Site Development Requirements results in benefits to the enhancement of site, building, and structural design or preservation of natural features.
10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Final PUD shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Final PUD application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Final PUD application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.70.

G. Expiration of a Decision.

1. If the application proposes to develop the PUD in a single phase, the decision shall expire two (2) years after the date of decision. Refer to Section 50.90.

40.15.15.6.G.

2. If the application proposes to develop the PUD over multiple phases, the decision making authority may approve a time schedule of not more than five (5) years for the multiple development phases. However, all PUD phases must commence construction within five (5) years of the date of decision of the Final PUD. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

40.20. DESIGN REVIEW [ORD 4332; November 2004]**40.20.05. Purpose.**

The purpose of Design Review is to promote Beaverton's commitment to the community's appearance, quality pedestrian environment, and aesthetic quality. It is intended that monotonous, drab, unsightly, dreary and inharmonious development will be discouraged. Design Review is also intended to conserve the City's natural amenities and visual character by insuring that proposals are properly related to their sites and to their surroundings by encouraging compatible and complementary development.

To achieve this purpose, the Design Review process is divided into two major components; Design Standards and Design Guidelines. Both standards and guidelines implement Design Principles, which are more general statements that guide development of the built environment. The Design Standards are intended to provide a "safe harbor" approach to designing a project. Depending on the design thresholds, designing a project to the standards would result in an administrative review process. However, the applicant may elect to bypass design review under the Design Standards and go straight to Design Review under the Design Guidelines, at the applicant's option.

An applicant for Design Review approval can address design review requirements through a combination of satisfying certain Design Standards, and in instances where it elects not to utilize Design Standards, satisfy applicable Design Guidelines. In such a case, the public hearing and decision will focus on whether or not the project satisfies the requirements of the applicable Design Guidelines only.

Because the Design Standards are a "safe harbor", there is no penalty for not meeting the Design Standards. Rather, the public hearing process would be required to consider the project by relying solely on the Design Guidelines. The Design Guidelines are intended to maintain as much flexibility and originality as desired. The project proponent will simply be required to demonstrate how the project meets the Design Principles and Design Guidelines at a public hearing. The decision making authority must make findings how the guidelines are met or if they apply to the proposal.

The purpose of Design Review as summarized in this Section is carried out by the approval criteria listed herein.

40.20.10. Applicability.

1. The scope of Design Review shall be limited to the exterior of buildings, structures, and other development and to the site on which the buildings, structures, and other development is located.
2. Considering the thresholds for the Design Review Compliance Letter, Design Review Two, or Design Review Three and unless exempted by Section 40.20.10.3, Design Review approval shall be required for the following:
 - A. All uses listed as Conditional Uses in the RA, R10, R7, R5, and R4 zoning districts.
 - B. All uses listed as Permitted and Conditional Uses in the R3.5, R2, and R1 residential zoning districts.
 - C. All uses listed as Permitted and Conditional Uses in all commercial, industrial, and multiple use zoning districts.
 - D. Site grading.
3. Design Review approval shall not be required for the following:
 - A. All uses listed as Permitted Uses in the RA, R10, R7, R5, and R4 residential zoning districts.
 - B. Detached dwellings and related residential accessory structures in any zoning district.
 - C. Maintenance of a building, structure, or site in a manner that is consistent with previous approvals.
 - D. Painting of any building in any zoning district.
 - E. Wireless communication facilities.
4. Design review approval through one of the procedures noted in Section 40.20.15. will be required for all new development where applicable. The applicable design principles, standards or guidelines will serve as approval criteria depending on the procedure. Existing developments, and proposed additions, demolitions and redevelopments associated with them, will be treated according to the following principles:

40.20.10.4.

- A. Development constructed or approved prior to the effective date of the ordinance adopting the design review update is not subject to new principles, standards and guidelines, and is considered fully conforming to the approvals issued at the time the development was approved by the City. Existing developments are not considered non-conforming if they do not meet new design standards. If existing development is structurally damaged or destroyed by casualty, replacement shall occur as follows:
 - 1. If structural damage or destruction is less than or equal to fifty percent (50%) of the existing gross floor area of the existing development, the area of damage or destruction can be replaced as legally existed on the site before the casualty loss.
 - 2. If structural damage or destruction is more than fifty percent (50%) of the existing gross floor area of the existing development, the area of damage or destruction must meet the provisions of this Code in every regard unless otherwise authorized by the provisions of this Code.
- B. Proposed new free-standing building(s) within an existing development will be subject to all applicable design standards.
- C. Proposed redevelopment of existing structures, where demolition of up to and including 25% of the area of the existing structure is proposed, new design standards or design guidelines are not applicable. If demolition is proposed greater than 25% up to and including 50% of the existing structure, 10% of the overall construction budget for new building improvements will be required to be devoted to improving portions of the building so as to meet applicable design standards or design guidelines. If demolition is proposed greater than 50% of the area of the existing structure, the full redevelopment project is subject to all applicable design standards or design guidelines.

40.20.10.

5. Design Review approval is required for all applicable new and existing developments. The City recognizes, however, that meeting all applicable design standards in an early phase of a multi-phased development on a large site may be difficult. It also recognizes that creating high quality pedestrian environments along Arterial Streets poses many challenges. In recognition of these and other issues, the following options are available.
 - A. Projects may use a Design Review Build-out Concept Plan (DRBCP), approved through a Type 3 process, to develop a site by demonstrating conceptually full compliance at build-out with the design review standards established in Section 60.05. Such projects must demonstrate in a DRBCP how future development of the site, to the minimum applicable floor area development standards contained in Chapter 20 of the Beaverton Development Code and to the minimum applicable design standards contained in Chapter 60.05 or greater, can be achieved at ultimate build out of the DRBCP. A DRBCP shall:
 1. Include an overall site area of at least three (3) acres;
 2. Not rely on the removal of a structure greater than 20% of the gross floor area of a development constructed in an early phase in order to demonstrate compliance in later phases.
 - B. When a development site abuts two (2) or more Arterial Streets that are also designated Major Pedestrian Routes, application of the applicable design standards may be moved from along the Arterial Streets. This alternative is to provide parking lot drive aisles developed as internal private streets, and to locate buildings along the internal private streets, subject to the following:
 1. The internal private streets shall extend from the Arterial Street to another public street, or back to an Arterial Street in such a way that street continuity is maintained along the entire internal street, and with abutting properties.
 2. A public access easement shall be required along the internal private streets.

40.20.10.5.B.

3. Buildings shall occupy a minimum percentage of the frontage of the internal private streets that is equal to the amount of lineal building frontage that would have been required under the standards for the Major Pedestrian Routes, and a minimum of 50% of the internal private streets shall have building frontage on both sides of the street.
4. All applicable design standards contained in Section 60.05, particularly 60.05.15.6 Building location and orientation along streets in Multiple Use Districts, 60.05.15.7 Building scale along streets in Multiple Use Districts, 60.05.20.9 Street frontages in Multiple Use Districts, and 60.05.20.10 Ground floor uses in parking structures shall be met by buildings along the internal private streets.

40.20.15. Application.

There are three (3) Design Review applications which are as follows: Design Review Compliance Letter, Design Review Two, and Design Review Three.

1. Design Review Compliance Letter.

- A. Threshold. An applicant may utilize the Design Review Compliance Letter process when the application is limited to one or more of the following categories of proposed action:
 1. Minor design changes to existing building or site including, but not limited to:
 - a. Façade changes, except changes in color.
 - b. Addition, elimination, or change in location of windows.
 - c. Addition, elimination, or change in location of person doors and loading doors.
 - d. Addition of new and change to existing awnings, canopies, and other mounted structures to an existing façade.
 - e. Demolition or other reduction of up to 25 percent of the existing building square footage.

40.20.15.1.A.1.

- f. Modification of on-site landscaping with no reduction in required landscaping.
 - g. Modification of off-street parking with no reduction in required parking spaces or increase in paved area.
 - h. Addition of new fences, retaining walls, or both.
 - i. Changing of existing grade.
2. Proposed additions of gross floor area to buildings in residential, commercial, or multiple use zones up to and including building area equal to 25% of the gross square feet of floor area of the existing building, but not to exceed 2,500 gross square feet of floor area.
 3. Proposed additions to buildings in industrial zones up to and including building area equal to 15% of the gross square feet of floor area of the existing building, but less than 30,000 gross square feet of floor area.

B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Design Compliance Letter. The decision making authority is the Director.

C. Approval Criteria.

1. The proposal satisfies the threshold requirements for a Design Compliance Review Letter.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. The proposal meets all applicable Site Development Requirements of Sections 20.05.50, 20.10.50, 20.15.50, and 20.20.50 of this Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.

40.20.15.1.C.

5. The proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards).
 6. If applicable, the proposed addition to an existing building, and only that portion of the building containing the proposed addition, complies with the applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) as they apply to the following:
 - a. Building articulation and variety.
 - b. Roof forms.
 - c. Building materials.
 - d. Perimeter/foundation landscaping requirements.
 - e. Screening roof-mounted equipment requirements.
 - f. Screening loading areas, solid waste facilities and similar improvements.
 - g. Lighting requirements.
 7. The proposal complies with all applicable provisions in Chapter 60 (Special Regulations).
 8. The proposal does not modify any conditions of approval of a previously approved Type 2 or Type 3 application.
 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Design Compliance Letter shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Compliance Letter application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Compliance Letter application to ensure compliance with the approval criteria.

40.20.15.1.

- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.20.15.

2. Design Review Two.

- A. Threshold. An application for Design Review Two shall be required when an application is subject to applicable design standards and one or more of the following thresholds describe the proposal:
1. New construction of up to and including 50,000 gross square feet of floor area where the development does not abut any residential zone.
 2. New construction of up to and including 30,000 gross square feet of floor area where the development abuts or is located within any residential zone.
 3. Additions to buildings in residential, commercial, or multiple use zones exceeding 25% of the gross square feet of floor area of the existing building(s), but less than 30,000 gross square feet of floor area.
 4. Proposed additions to buildings in industrial zones exceeding 15% of the gross square feet of floor area of the existing building(s), but less than 30,000 gross square feet.
 5. Any change in excess of 15 percent of the square footage of on-site landscaping or pedestrian circulation area.
 6. Any new or change to existing on-site vehicular parking, maneuvering, and circulation area which adds paving or parking spaces.
 7. New parks in non-residential zoning districts.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Design Review Two. The decision making authority is the Director.

40.20.15.2.

C. Approval Criteria.

1. The proposal satisfies the threshold requirements for a Design Review Two application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. The proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards).
5. For additions to or modifications of existing development, the proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) or can demonstrate that the additions or modifications are moving towards compliance of specific Design Standards if any of the following conditions exist:
 - a. A physical obstacle such as topography or natural feature exists and prevents the full implementation of the applicable standard; or
 - b. The location of existing structural improvements prevent the full implementation of the applicable standard; or
 - c. The location of the existing structure to be modified is more than 300 feet from a public street.

If the above listed conditions are found to exist and it is not feasible to locate a proposed addition in such a way that the addition abuts a street, then all applicable design standards except the following must be met:

40.20.15.2.C.5.

- d. If in a Multiple-Use District, building location, entrances and orientation along streets, and parking lot limitations along streets (Standards 60.05.15.6 and 60.05.20.8)
 - e. If in a Multiple-Use or Commercial District, ground floor elevation window requirements (Standard 60.05.15.8).
- 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Design Review Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Review Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Review Two application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.20.15.

3. Design Review Three.

- A. Threshold. An application for Design Review Three shall be required when an application is subject to applicable design guidelines and one or more of the following thresholds describe the proposal:
1. New construction or addition of more than 50,000 gross square feet of floor area where the development does not abut any residential zone.
 2. New construction or addition of more than 30,000 gross square feet of floor area where the development abuts or is located within any residential zone.
 3. Additions to buildings in residential, commercial, or multiple use zones exceeding 25% of the gross square feet of floor area of the existing building(s) and more than 30,000 gross square feet of floor area.
 4. Additions to buildings in industrial zones exceeding 15% of the gross square feet of floor area of the existing building(s) and more than 30,000 gross square feet.
 5. Projects proposed utilizing the options described in Section 40.20.10.5.
 6. New parks in residential zoning districts.
 7. A project meeting the Design Review Compliance Letter thresholds which does not meet an applicable design standard(s).
 8. A project meeting the Design Review Two thresholds which does not meet an applicable design standard.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Design Review Three. The decision making authority is the Board of Design Review.

40.20.15.3.

C. Approval Criteria.

1. The proposal satisfies the threshold requirements for a Design Review Three application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. The proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines).
5. For additions to or modifications of existing development, the proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines) or can demonstrate that the additions or modifications are moving towards compliance of specific Design Guidelines if any of the following conditions exist:
 - a. A physical obstacle such as topography or natural feature exists and prevents the full implementation of the applicable guideline; or
 - b. The location of existing structural improvements prevent the full implementation of the applicable guideline; or
 - c. The location of the existing structure to be modified is more than 300 feet from a public street.

If the above listed conditions are found to exist and it is not feasible to locate a proposed addition in such a way that the addition abuts a street, then all applicable design standards except the following must be met:

40.20.15.3.C.5.

- d. If in a Multiple-Use District, building location, entrances and orientation along streets, and parking lot limitations along streets (Standards 60.05.15.6 and 60.05.20.8)
 - e. If in a Multiple-Use or Commercial District, ground floor elevation window requirements (Standard 60.05.15.8).
- 6. For DRBCP proposals which involve the phasing of required floor area, the proposed project shall demonstrate how future development of the site, to the minimum development standards established in this Code or greater, can be realistically achieved at ultimate build out of the DRBCP.
- 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Design Review Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Review Three application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Review Three application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.25. DIRECTOR'S INTERPRETATION

40.25.05. Purpose.

The purpose of the Director's Interpretation is to address new uses which may come into existence over time that are not addressed specifically in the Code or some of the terms or phrases within the Code which may require further interpretation. The Director's Interpretation is established for resolving Code interpretation issues in advance of, or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein.

40.25.10. Applicability.

The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code.

40.25.15. Application.

There is a single Director's Interpretation application which is subject to the following requirements.

1. Director's Interpretation.

- A. Threshold. An application for Director's Interpretation shall be required when one or more of the following thresholds apply:
 - 1. A request that the Director interpret the Development Code in writing.
 - 2. A request that the Director provide a determination of nonconforming status of a lot, structure, or use in writing.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Director's Interpretation. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Director's Interpretation application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Director's Interpretation application.

40.25.15.1.C.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. That the interpretation is consistent with the City's Comprehensive Plan and other provisions within this Code.
 4. When interpreting that a use not identified in the Development Code is a permitted, a conditional, or prohibited use, that use must be substantially similar to a use currently identified in the subject zoning district or elsewhere in the Development Code.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Director's Interpretation shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Director's Interpretation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Director's Interpretation application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.65.
- G. Expiration of a Decision. A Director's Interpretation shall not expire unless superseded by a subsequent Director's Interpretation or a Development Code change.
- H. Extension of a Decision. Because a Director's Interpretation does not expire, extension of a Director's Interpretation is not necessary. If a prior Director's Interpretation is superceded, the prior Director's Interpretation will no longer be in effect and cannot be extended.

40.30. FLEXIBLE AND ZERO YARD SETBACKS**40.30.05. Purpose.**

The purpose of flexible and zero yard setbacks is to encourage flexibility in building design and layout, while providing for open space, adequate light, air, and safety. It is also recognized that a reduction in the setback standards may create compatibility problems for surrounding properties. The following provisions allow flexible setbacks in a manner which is appropriate given the unique character of the property involved and the surrounding area. This Section is carried out by the approval criteria listed herein.

40.30.10. Applicability.

Development on a lot of record in Residential, Commercial, Industrial, and Multiple Use zoning districts may request approval of the flexible or zero setback provisions of this section.

40.30.15. Application Types.

There are six (6) Flexible and Zero Yard Setback applications which are as follows: Flexible Setback for Individual Lot With Endorsement; Flexible Setback for Individual Lot Without Endorsement; Flexible Setback for a Proposed Land Division; Flexible Setback for an Annexation; Zero Side or Zero Rear Yard Setback for a Proposed Land Division in Residential Districts; and Zero Side Yard Setback for a Proposed Land Division in the Commercial, Industrial, or Multiple Use Districts.

1. Flexible Setback for Individual Lot With Endorsement.

- A. Threshold. An application for Flexible Setback for an Individual Lot With Endorsement shall be required when the following threshold applies:
 - 1. Development on individual residentially zoned lots of record proposes to use flexible setbacks and can demonstrate abutting property owners of record endorsement of the request.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Flexible Setback for Individual Lot With Endorsement. The decision making authority is the Director.

40.30.15.1.

- C. Approval Criteria. In order to approve a Flexible Setback on Individual Lot With Endorsement application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback on Individual Lot With Endorsement application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal does not violate any recorded Solar Access requirements.
 5. The proposal meets the minimum standards specified in Section 20.05.50.3.D of this Code.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Flexible Setback for Individual Lot With Endorsement shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for Individual Lot With Endorsement application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for Individual Lot With Endorsement application to ensure compliance with the approval criteria.

40.30.15.1.

- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

2. Flexible Setback for Individual Lot Without Endorsement.

- A. Threshold. An application for Flexible Setback for an Individual Lot Without Endorsement shall be required when the following threshold applies:
1. Development on individual residentially zoned lots of record proposes to use flexible setbacks and cannot demonstrate abutting property owners of record endorsement of the request.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for Individual Lot Without Endorsement. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Flexible Setback on Individual Lot Without Endorsement application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback on Individual Lot Without Endorsement application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal does not violate any recorded Solar Access Permit requirements.
 4. The proposal meets the minimum standards specified in Section 20.05.50.3.D of this Code.
 5. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

40.30.15.2.C.

6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Flexible Setback for Individual Lot Without Endorsement shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for Individual Lot Without Endorsement application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for Individual Lot Without Endorsement application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

3. Flexible Setback for a Proposed Residential Land Division.

- A. Threshold. An application for Flexible Setback for a Proposed Residential Land Division shall be required when the following threshold applies:
1. The property is located within a residential zoning district and is accompanied by a land division application for the subject property.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for a Proposed Residential Land Division and shall be considered concurrently with the proposed land division. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Residential Land Division application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is compatible with the surrounding area, which is defined as abutting properties and properties directly across the street from the proposal site. Properties directly across the street from the development shall be those properties perpendicular from any property line of the proposal. Findings for compatibility must be made with regard to topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

40.30.15.3.C.

4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Flexible Setback for a Proposed Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for a Proposed Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for a Proposed Residential Land Division application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

4. Flexible Setback for a Proposed Annexation.

- A. Threshold. An application for Flexible Setback for a Proposed Annexation shall be required when the following threshold applies:
1. The property is located within a residential zoning district which is the subject of a petition for annexation into the City.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for a Proposed Annexation and shall be considered concurrently with any Comprehensive Plan and Zoning Map amendments. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Annexation application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Annexation application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is consistent with previous applicable land use decisions regarding the subject property rendered by the former jurisdiction.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.30.15.4.

- D. Submission Requirements. An application for a Flexible Setback for a Proposed Annexation shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for a Proposed Annexation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for a Proposed Annexation application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

5. Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division.

- A. Threshold. An application for Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division shall be required when the following threshold applies:
1. The property is located within a residential zoning district and is accompanied by a land division application for the subject property.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division in any residential zoning district and shall be considered concurrently with the proposed land division. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The side or rear yard setback on all adjacent lots which abut the proposed zero side or rear setback are either zero feet (0') or ten feet (10') or more.
 4. The zero side or zero rear yard is not abutting a public right-of-way or any access easement.
 5. No portion of a structure or architectural feature shall project over a property line related to the zero side or rear yard setback unless a permanent easement allowing such projection has been granted.

40.30.15.5.C.

6. A four foot (4') non-exclusive maintenance easement appears on the plat within the adjacent side or rear yard setback of the adjacent lot where it abuts the zero setback.
7. Satisfactory deed restrictions are submitted with the preliminary land division which address maintenance requirements for the zero setback wall.
8. Five foot utility easements are provided along all side and rear property lines except where the zero setback is designated.
9. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.
10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.70.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

6. Zero Side Yard Setback for a Proposed Non-Residential Land Division.

- A. Threshold. An application for Zero Side Yard Setback for a Proposed Non-Residential Land Division shall be required when the following threshold applies:
1. The property is located within a commercial, industrial, or multiple use zoning district and is accompanied by a land division application for the subject property.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Zero Side Yard Setback for Proposed Non-Residential Land Division in any Commercial, Industrial, and Multiple Use zoning district and shall be considered concurrently with the proposed land division. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Zero Side Yard Setback for a Proposed Non-Residential Land Division in the Commercial, Industrial, or Multiple Use zoning districts application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Zero Side Yard Setback for a Proposed Non-Residential Land Division application in the Commercial, Industrial, or Multiple Use zoning districts.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The minimum adjacent side yard setback on all adjacent lots which abut the proposed zero setback parcel are either zero feet (0') as well or twenty feet (20') or more.
 4. The zero side yard is not abutting a public right-of-way or any access easement.

40.30.15.6.C.

5. The zero side yard does not abut any residential district.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Zero Side Yard Setback for a Proposed Non-Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Zero Side Yard Setback for a Proposed Non-Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Zero Side Yard Setback for a Proposed Non-Residential Land Division application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.35. HISTORIC REVIEW**40.35.05. Purpose.**

The purpose of Historic Review is to preserve, enhance, and perpetuate landmarks and districts which represent or reflect elements of the City's cultural, social, economic, and architectural history and to promote the use of historic districts and landmarks for the education, pleasure, housing and public welfare of the City's current and future citizens. This Section is carried out by the approval criteria listed herein.

40.35.10. Applicability

1. The scope of Historic Review shall be limited to the exterior alteration, modification, demolition, and moving of a designated historic landmark and the construction of new structures within a designated historic district.
2. Historic Review approval shall not be required for the following:
 - A. Changes in use.
 - B. Interior remodeling.
 - C. Maintenance or repair of the exterior where any change to the original building materials or physical appearance is conducted in a manner that is consistent with previous approvals. Determination of the original building materials or physical appearance can be made by reviewing a historic photograph, original building plans, or other evidence of the original building features.
3. Nothing in this Code shall be construed to prevent the construction, reconstruction, alteration, or demolition of City designated historic resources which the City Building Official certifies as required by the City's Building Code.

40.35.15. Application.

There are four (4) Historic Review applications which are as follows: Alteration, Emergency Demolition, Demolition of a Landmark, and New Construction in a Historic District.

40.35.15.

1. Alteration of a Landmark.

- A. Threshold. An application for Alteration of a Landmark shall be required when one or more of the following thresholds apply:
1. Changes to any aspect of the exterior appearance, including, but not limited to, paint color, exterior finish materials, architectural detailing, and changes to window and door locations or dimensions.
 2. Moving a landmark to a new location.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Alteration of a Landmark. The decision making authority is the Board of Design Review.
- C. Approval Criteria. In order to approve an Alteration of a Landmark application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for an Alteration of a Landmark application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The distinguishing original historic or architectural qualities or character of a building, structure, or site and its environment are being preserved.
 4. Any alteration to buildings, structures, and sites are in keeping with the time period of the original construction.
 5. Any distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site have been preserved unless said features are a threat to public health and safety or are in violation of building, fire, or access regulations.

40.35.15.1.C.

6. Deteriorating architectural features will be repaired rather than replaced, wherever possible.
 7. New material used for replacement will match the material being replaced in terms of composition, design, color, texture, and other visual qualities.
 8. The repair or replacement of missing architectural features is based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence.
 9. The design of the proposed addition or alteration does not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, material, and character of the property, neighborhood, or environment.
 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for an Alteration of a Landmark shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Alteration of a Landmark application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of an Alteration of a Landmark application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.35.15.

2. Emergency Demolition of a Landmark.

- A. Threshold. An application for Emergency Demolition of a Landmark shall be required when the following threshold applies:
1. Demolition of an existing landmark when demolition is required by the Building Official.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Emergency Demolition of a Landmark. The decision making authority is the Director.
- C. Approval Criteria. In order to approve an Emergency Demolition of a Landmark application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for an Emergency Demolition of a Landmark application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The City of Beaverton Building Official has declared, consistent with the Dangerous Buildings Code, the historic building or structure to be an immediate threat to health and safety.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.35.15.2.

- D. Submission Requirements. An application for an Emergency Demolition of a Landmark shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Emergency Demolition of a Landmark application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of an Emergency Demolition of a Landmark application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.35.15.

3. Demolition of a Landmark.

- A. Threshold. An application for Demolition of a Landmark shall be required when the following threshold applies:
1. Demolition of an existing landmark.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Demolition of a Landmark. The decision making authority is the Board of Design Review.
- C. Approval Criteria. In order to approve a Demolition of a Landmark application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Demolition of a Landmark application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The economic, social, environmental, and energy consequences of allowing the demolition outweigh the preservation of the historic landmark.
 4. The applicant has not rejected the highest bona fide offer for sale and removal of the building.
 5. If applicable, the historic or architectural significance of the resource is not sufficient to warrant its continued preservation.
 6. If applicable, the physical condition of the building is such that it is not practical to improve its condition to meet applicable building codes.

40.35.15.3.C.

7. If within a Historic District, the loss of the structure will not diminish the overall integrity of the District.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Demolition of a Landmark shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Demolition of a Landmark application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Demolition of a Landmark application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.35.15.

4. New Construction in a Historic District.

- A. Threshold. An application for New Construction in a Historic District shall be required when the following threshold applies:
1. Construction of a new structure of more than 120 gross square feet in size in a historic district, which is not attached to a designated historic structure.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for New Construction in a Historic District. The decision making authority is the Board of Design Review.
- C. Approval Criteria. In order to approve a New Construction in a Historic District application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a New Construction in a Historic District application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. As it relates to existing surroundings and future allowed uses, their location, size, shape, height, and spatial and visual arrangement, the proposed development is compatible with and does not substantially detract from the historic value of the existing Historic District.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.35.15.4.

- D. Submission Requirements. An application for a New Construction in a Historic District shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The New Construction in a Historic District application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a New Construction in a Historic District application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.40. HOME OCCUPATION

40.40.05. Purpose.

The provisions of Home Occupation is to provide recognition of the needs or desires of many people to engage in small scale business ventures at home. It recognizes the potential advantages for reducing commuter travel when people work at home. It is also recognized that such uses, if not carefully regulated, may be incompatible with the purposes of residential districts. It is the intent of this section that these uses be allowed so long as they are not in violation of the terms of this section and do not alter the residential character of the neighborhood, infringe upon the right of neighboring residents to the peaceful enjoyment of their neighborhood homes, or otherwise be detrimental to the community at large. This Section is carried out by the approval criteria listed herein.

40.40.10. Applicability.

The provisions of this section apply to all home occupations as defined in Chapter 90 of this Code, except for the following situations:

1. Garage, Yard, or Estate sales from the site that occur for no more than three (3) consecutive days on not more than two (2) occasions during a calendar year.
2. Production of produce or other vegetative agricultural products grown on the premises. The temporary or seasonal sale of produce or other vegetative agricultural products grown on the premises is subject to the provisions of Section 40.80, Temporary Use.
3. Prohibited home occupation uses are:
 - A. Any use not conducted within a wholly enclosed building.
 - B. Automotive services, Major.
 - C. Automotive services, Minor.
 - D. Junk and Salvage Operations.
 - E. Storage or sale of fireworks.

40.40.10.3.

- F. Any use that consists of the manufacturing, processing, generation, or storage of materials that constitute a fire, explosion, or health hazard as defined by the Building Code, Fire Code, or both.

40.40.15. Application.

There are two (2) Home Occupation applications which are as follows: Home Occupation One and Home Occupation Two.

1. Home Occupation One

- A. Threshold. An application for Home Occupation One shall be required when one or more of the following thresholds describe the proposed home occupation:
 - 1. There are no outside volunteers or employees who do not reside on the premises.
 - 2. No clients or customers of the proposed home occupation visit the premises for a reason related to the home occupation.
 - 3. There will be no exterior alteration to the residence.
 - 4. Excluding regular U. S. Postal Service delivery, the home occupation shall not require more than one (1) trip per day for delivery or pick up per day to the residence between the hours of 8:00 a.m. and 6:00 p.m. There shall be no deliveries between the hours of 6:00 p.m. and 8:00 a.m.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Home Occupation One. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Home Occupation One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

40.40.15.1.C.

1. The proposal satisfies the threshold requirements for a Home Occupation One application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
4. The home occupation is being undertaken only by an occupant of the residence.
5. The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licenses as appropriate to the proposed use.
6. The proposed home occupation shall be operated entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment will occur on the premises.
7. The proposed home occupation will not change the use classification of the dwelling unit or accessory structure, as determined by the City Building Official applying the State Building Code.
8. The proposed home occupation and associated storage of materials and products shall not occupy more than 700 gross square feet of floor area.
9. The subject property will continue to be used and maintained as a residence and will conform to all requirements of this and other City Codes as they pertain to residential property.
10. The home occupation, including deliveries from other businesses, does not include the use of tractor trailers, fork lifts, or similar heavy equipment.

40.40.15.1.C.

11. There will be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.
 12. There will be no exterior storage of vehicles of any kind used for the business except that one (1) commercially licensed vehicle, which is not larger than a 3/4 ton pick-up, passenger van, or other vehicle of similar size, may be parked outside on the subject property provided such parking complies with all parking restrictions.
 13. The proposal will not involve storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities that involve toxic or flammable materials which in the judgment of the Fire Marshall pose a health or safety risk to the residence, its occupants or surrounding properties.
 14. There is no signage associated with the proposed home occupation aside from a name plate as allowed by Section 60.40.15 of this Code.
 15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Home Occupation One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Home Occupation One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Home Occupation One application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Home Occupation One application shall not be extended.

40.40.15.

2. Home Occupation Two

- A. Threshold. An application for Home Occupation Two shall be required when one or more of the following thresholds apply:
1. The proposed home occupation has a maximum of one (1) volunteer or employee who is not a resident on the premises.
 2. The proposed home occupation will have no more than 8 daily customers or clients on the premises.
 3. All customer and client visits to the proposed home occupation will occur only between the hours of 7:00 a.m. and 10:00 p.m.
 4. If on-site parking is provided, a plan for additional parking may be approved if:
 - a. Not more than a total of 4 on-site parking spaces for the combined residential and home occupation uses are proposed.
 - b. The parking spaces, driveway, street access, landscaping, storm water drainage, and screening comply with this Code and other city standards.
 5. Exterior alteration to the residence will take place to accommodate the home occupancy.
 6. Excluding regular U. S. Postal Service delivery, the home occupation shall not require more than two (2) trips per day for delivery or pick up to the residence between the hours of 8:00 a.m. and 6:00 p.m. There shall be no deliveries or pick ups between the hours of 6:00 p.m. and 8:00 a.m.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Home Occupation Two. The decision making authority is the Director.

40.40.15.2.

- C. Approval Criteria. In order to approve a Home Occupation Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Home Occupation Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed home occupation is being undertaken by an occupant of the residence.
 4. The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licenses as appropriate to the proposed use.
 5. The proposed home occupation shall be operated entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment shall occur on the premises.
 6. The proposed home occupation will not change the use classification of the dwelling unit or accessory structures as determined by the City Building Official applying the State Building Code.
 7. The proposed home occupation and associated storage of materials and products shall not occupy more than 700 gross square feet of floor area.
 8. The subject property will continue to be used and maintained as a residence and will conform to all requirements of this and other City Codes as they pertain to residential property.
 9. The home occupation, including deliveries from other businesses, shall not include the use of tractor trailers, fork lifts, or similar heavy equipment.

40.40.15.2.C.

10. There shall be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.
11. There shall be no exterior storage of vehicles of any kind used for the business except that one (1) commercially licensed vehicle, which is not larger than a 3/4 ton pick-up, passenger van, or other vehicle of similar size, may be parked outside on the subject property, provided such parking complies with applicable parking restrictions.
12. The proposal will not involve storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities that involve toxic or flammable materials which in the judgment of the Fire Marshall pose a health or safety risk to the residence, its occupants or surrounding properties.
13. There is no signage associated with the proposed home occupation aside from a name plate as allowed by Section 60.40.15 of this Code.
14. Exterior remodeling will not alter the residential character of the building.
15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Home Occupation Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Home Occupation Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Home Occupation Two application to ensure compliance with the approval criteria.

40.40.15.2.

- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Home Occupation
Two application shall not be extended.

40.45. LAND DIVISION**40.45.05. Purpose.**

The purpose of the Land Division applications is to establish regulations, procedures, and standards for the division of land within the City of Beaverton. This Section is carried out by the approval criteria listed herein.

40.45.10. Applicability.

The provisions of this section shall apply to the creation of new lots or the reconfiguration of existing property lines, except for the dedication of public rights-of-way.

40.45.15. Application.

There are seven (7) Land Division applications which are as follows: Lot Line Adjustment, Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, Preliminary Fee Ownership Subdivision, Final Land Division, and Expedited Land Division.

1. Lot Line Adjustment.

- A. Threshold. An application for Lot Line Adjustment shall be required when the following threshold applies:
 - 1. The changing of the common boundary of at least two (2) lots of record and does not create an additional lot.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Lot Line Adjustment. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Lot Line Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Lot Line Adjustment application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.45.15.1.C.

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. An additional lot is not created.
 5. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be considered concurrently with the subject proposal.
 6. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations).
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Lot Line Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Lot Line Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Lot Line Adjustment application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

2. Preliminary Partition.

- A. Threshold. An application for Preliminary Partition shall be required when the following threshold applies:
1. The creation of up to and including three (3) new lots from one (1) lot of record in one calendar year.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Preliminary Partition. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Partition application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary Partition application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Oversized lots shall have a size and shape which will facilitate the future partitioning or subdividing of such lots in accordance with the requirements of this Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed lots as well as the future development on oversized lots.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Preliminary Partition shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary Partition application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.45.15.2.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Partition application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90. The filing of a Final Land Division application shall occur within two (2) years of the date of Preliminary Partition approval. [ORD 4265; September 2003]
- H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

3. Preliminary Subdivision.

- A. Threshold. An application for Preliminary Subdivision shall be required when the following threshold applies:
1. The creation of four (4) or more new lots from a lot of record in one (1) calendar year.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Preliminary Subdivision. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Subdivision application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary Subdivision application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Oversized lots shall have a size and shape which will facilitate the future partitioning or subdividing of such lots in accordance with the requirements of this Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed lots as well as the future development on oversized lots.
 4. If phasing is requested by the applicant, the requested phasing plan can be carried out in a manner which satisfies the approval criteria and provides necessary public improvements for each phase as the project develops.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.45.15.3.

D. Submission Requirements.

1. An application for a Preliminary Subdivision shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary Subdivision application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
2. When an applicant desires to phase the development of a Preliminary Subdivision, it shall be indicated at the time of Preliminary Subdivision application submittal. The Director is responsible for approving a time schedule for the final platting of the various phases. In no case shall the total time period for the final platting of all stages be greater than five years without filing a new Preliminary Subdivision application.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Subdivision application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.65.

G. Expiration of a Decision. Refer to Section 50.90. The filing of a Final Land Division application shall occur within two (2) years of the date of Preliminary Subdivision approval. [ORD 4265; September 2003]

H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

4. Preliminary Fee Ownership Partition.

- A. Threshold. An application for Preliminary Fee Ownership Partition shall be required when the following threshold applies:
1. The creation of up to and including three (3) new lots from a lot of record in one calendar year in Commercial, Industrial or Multiple Use zones which do not meet the access requirements contained in Section 60.55.40.1 of this Code, or which do not meet all of the Site Development Requirements of Chapter 20 (Land Uses) for new lots in Commercial, Industrial, or Multiple Use zones where an Adjustment, Variance, or Planned Unit Development application will not be filed to address the same Site Development Requirements. [ORD 4265; September 2003]
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Preliminary Fee Ownership Partition. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Fee Ownership Partition application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary Fee Ownership Partition application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The parent parcel shall meet the minimum setback requirements for the applicable zoning district unless the setback is subject to an Adjustment, Variance, or Zero Side Yard Setback for a proposed Non-Residential Land Division application which shall be considered concurrently with the subject proposal.

40.45.15.4.C.

4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Preliminary Fee Ownership Partition shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary Fee Ownership Partition application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Fee Ownership Partition application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90. The filing of a Final Land Division application shall occur within two (2) years of the date of Preliminary Fee Ownership Partition approval. [ORD 4265; September 2003]
- H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

5. Preliminary Fee Ownership Subdivision.

- A. Threshold. An application for Preliminary Fee Ownership Subdivision shall be required when one or more of the following thresholds apply:
1. The creation of four (4) or more new lots from a lot of record in one (1) calendar year which do not meet all of the Site Development Requirements of Chapter 20 (Land Uses) for new lots in Commercial, Industrial, or Multiple Use zones where an Adjustment, Variance, or Planned Unit Development application will not be filed to address the same Site Development Requirements.
 2. The creation of four (4) or more new lots from a lot of record in one (1) calendar year which do not meet the access requirements contained in Section 60.55.40.1 of this Code.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Preliminary Fee Ownership Subdivision. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Fee Ownership Subdivision application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary Fee Ownership Subdivision application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The parent parcel shall meet the minimum setback requirements for the applicable zoning district unless the setback is subject to an Adjustment, Variance, or Zero Side Yard Setback for a proposed Non-Residential Land Division application which shall be considered concurrently with the subject proposal.

40.45.15.5.C.

4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements.

1. An application for a Preliminary Fee Ownership Subdivision shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary Fee Ownership Subdivision application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
2. When an applicant desires to phase the development of a Fee Ownership Subdivision, it shall be indicated at the time of Preliminary Fee Ownership Subdivision application submittal. The Director is responsible for approving a time schedule for the final platting of the various phases. In no case shall the total time period for the final platting of all stages be greater than five years without filing a new Preliminary Fee Ownership Subdivision application.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Fee Ownership Subdivision application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.65.

G. Expiration of a Decision. Refer to Section 50.90. The filing of a Final Land Division application shall occur within two (2) years of the date of Preliminary Fee Ownership Subdivision approval. {ORD 4265; September 2003}

H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

6. Final Land Division.

- A. Threshold. An application for Final Land Division shall be required when the following threshold applies:
1. A proposal to finalize a previously approved Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, or Preliminary Fee Ownership Subdivision.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Final Land Division. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Final Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Final Land Division application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal is consistent with the applicable previously approved Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, or Preliminary Fee Ownership Subdivision.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.45.15.6.

- D. Submission Requirements. An application for a Final Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Final Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Final Land Division application to ensure compliance with the approval criteria. Following approval by the City of the Final Land Division, the applicant shall record the plat with Washington County. The applicant shall submit a mylar copy of the recorded plat to the City prior to issuance of building permits for any of the new lots.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

7. Expedited Land Division

An application for and any appeal of an expedited land division shall be subject to the provisions in ORS 197.360 through ORS 197.380.

40.50. LOADING DETERMINATION

40.50.05. Purpose.

The purpose of a Loading Determination is to establish mechanism to determine or modify the required number of off street loading spaces, or modify the off-street loading space dimensions in advance of, or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein.

40.50.10. Applicability.

A Loading Determination may be requested in writing to establish an off street loading space total for any use not specifically listed in Section 60.25 (Off Street Loading), establish an off street loading space total that differs from the listed requirement in Section 60.25, and modify the off street loading space dimensions listed in Section 60.25 of this Code.

40.50.15. Application.

There is a single Loading Determination application which is subject to the following requirements.

1. Loading Determination.

- A. Threshold. An application for Loading Determination shall be required when one or more of the following thresholds apply:
 - 1. A request that the Director establish, in writing, an off street loading space total or requirement for any use not listed or substantially similar to a use listed in Section 60.25 (Off Street Loading) of this Code.
 - 2. A request to modify the total number of off street loading spaces from the required number listed in Section 60.25 (Off Street Loading) of this Code.
 - 3. A request to modify the dimensions of a required off street loading space listed in Section 60.25 (Off Street Loading) of this Code.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Loading Determination. The decision making authority is the Director.

40.50.15.1.

- C. Approval Criteria. In order to approve a Loading Determination application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Loading Determination application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The determination will not create adverse impacts, taking into account the total gross floor area and the hours of operation of the use.
 4. The proposal will not interfere with pedestrian or vehicular traffic on a street.
 5. The proposal will be able to reasonably accommodate the off street loading needs of the structure.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Loading Determination shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Loading Determination application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Loading Determination application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Loading Determination application shall not be extended.

40.55. PARKING DETERMINATION

40.55.05. Purpose.

The purpose of a Parking Determination is to establish required number of parking spaces for uses which do not have a parking ratio requirement listed in this Code. The Parking Determination application is established for determining the required number of off street parking spaces in advance of, or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein.

40.55.10. Applicability.

A Parking Determination may be requested in writing to establish a required off street parking ratio or specific number of off street parking spaces for use not specifically listed in Section 60.30 (Off Street Parking) of this Code, to share require parking spaces, and to determine the existence of excess required parking.

40.55.15. Application.

There are three (3) Parking Determination applications which are as follows: Parking Requirement Determination, Shared Parking, and Use of Excess Parking.

1. Parking Requirement Determination.

- A. Threshold. An application for Parking Requirement Determination shall be required when the following threshold applies:
 - 1. A request that the Director establish, in writing, an off street parking ratio or requirement for a use not listed or substantially similar to a use listed in Section 60.30 (Off Street Parking) of this Code.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Parking Requirement Determination. The decision making authority is the Director.

40.55.15.1.

- C. Approval Criteria. In order to approve a Parking Requirement Determination application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Parking Requirement Determination application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The determination is consistent with Title 2 of Metro's Urban Growth Management Functional Plan.
 4. The determination will not create adverse impacts, taking into account the total gross floor area, number of employees, potential customer volume, and the hours of operation of the use.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Parking Requirement Determination shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Parking Requirement Determination application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Parking Requirement Determination application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Parking Requirement Determination application shall not be extended.

40.55.15.

2. Shared Parking.

- A. Threshold. An application for Shared Parking shall be required when one or more of the following thresholds apply:
 - 1. The required off street parking for two or more uses will share required parking spaces.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Shared Parking. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Shared Parking application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Shared Parking application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The location of the shared off street parking is on an abutting property and is within 200 feet of the subject use in which the shared parking is intended to serve, except in Multiple Use zoning districts where the location may be at any distance.
 - 4. If multiple properties are involved, the owners of each of the properties has agreed to the shared parking by entering into a shared parking agreement.
 - 5. The time of peak parking demand for the various uses located on the subject properties occur at different times of the day.
 - 6. Adequate parking will be available at all times when the various uses are in operation.

40.55.15.2.C.

7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Shared Parking shall be made by the owners of the subject properties, or the owners' authorized agents, on a form provided by the Director and shall be filed with the Director. The Shared Parking application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Shared Parking application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Shared Parking application shall not be extended.

40.55.15.

3. Use of Excess Parking.

- A. Threshold. An application for Use of Excess Parking shall be necessary when one or more of the following thresholds apply:
 - 1. A request to declare required off-street parking is in excess of the need for the use on the subject property.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Use of Excess Parking. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Use of Excess Parking application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Use of Excess Parking application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 - 4. Excess parking accounts for a minimum of 20% of the required parking for all uses of the site;
 - 5. Excess parking has existed for the previous 180 days;
 - 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.55.15.3.

- D. Submission Requirements. An application for Use of Excess Parking shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Use of Excess Parking application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Use of Excess Parking application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Use of Excess Parking application shall not be extended.

40.57. PUBLIC TRANSPORTATION FACILITY [ORD 4332; November 2004]**40.57.05 Purpose**

The purpose of the Public Transportation Facility application is to identify development review standards and procedures for the review of public transportation improvements that are subject to such review.

40.57.10 Applicability

1. This Section applies to the design and construction of public transportation facilities including roadways and bridges, and transit, bicycle and pedestrian facilities within public rights-of-way and the areas adjacent to the rights-of-way where physical changes occur as a result of such design and construction. Unless exempted by Section 40.57.10.2, Public Transportation Facility application approval shall be required for Collectors, Arterials, Principal Arterials, and Freeways.
2. Unless specified in the applicable thresholds for Public Transportation Facility, approval shall not be required for the following:
 - A. Local and Neighborhood Route streets.
 - B. Public transportation facility improvements which were required as a part of another development application.
 - C. Maintenance, preservation, and repair of existing public roads, transportation facilities and structures within all existing rights-of-way and easements.
 - D. Modifications within all existing rights-of-way and easements including, but not limited to striping, addition of curbs or medians, sidewalks speed humps, curb extensions, street lighting, signalization, reflectors, buttons, signs, flashing beacons, or other similar modifications.
 - E. Bus turnouts within all existing rights-of-way.
 - F. Reconstruction or matching replacement of a public transportation facility within all existing rights-of-way, including the enlargement or removal of culverts, pilings or similar structures, provided they are not located in a floodplain, special flood hazard area, or Significant Natural Resource Area.

40.57.10.2.

- G. Contractor construction staging areas and stockpiling of materials within all public rights-of-way or easements.
- H. Repairs, improvements, detours and traffic pattern changes that are made in response to an emergency.
- I. Private Streets

40.57.15 Application.

There is a single Public Transportation Facility application which is subject to the following requirements.

1. Public Transportation Facility.

- A. Threshold. An application for Public Transportation Facility shall be required when the applicability statements listed in Section 40.57.10.1 apply, none of the exemptions listed in Section 40.57.10.2 apply, and one or more of the following thresholds describe the proposal:
 - 1. New transportation facilities which:
 - a. Require the acquisition of right-of-way, or
 - b. Are located within existing public right-of-way where no transportation facility currently exists.
 - 2. The extension or widening of existing transportation facilities which:
 - a. Require the acquisition of right-of-way, or
 - b. Are located within an existing public right-of-way.
 - c. Increases the combined width of existing street improvements by six (6) feet or more.
 - 3. Construction activities including contractor construction staging areas and stockpiling of materials outside a public right-of-way or easement.
 - 4. Transit shelters.

40.57.15.1.

- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Public Transportation Facility. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Public Transportation Facility application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Public Transportation Facility application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 4. The proposal meets all applicable design standards for the classification of the subject road as specified by the *Engineering Design Manual and Standard Drawings* unless the applicable provisions have been modified by the City Engineer by separate process.
 5. The alignment of the new or extended transportation facility is consistent with the general location shown in the Comprehensive Plan Transportation Element.
 6. Any interim improvements have been designed to accommodate future improvement of the facility to ultimate standards.
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.57.15.1.

- D. Submission Requirements. An application for a Public Transportation Facility shall be made by the City Engineer or an authorized agent of a public agency with jurisdiction, on a form provided by the Director and shall be filed with the Director. The Public Transportation Facility application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Public Transportation Facility application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.60. SIGN**40.60.05. Purpose.**

The purpose for regulating signs is to promote the neat, clean, orderly, and attractive appearance of the community, balance the need of signs with avoiding potential nuisances to nearby properties and conflicts with other signage, ensure safe construction, location, installation, and maintenance of signage, prevent proliferation of signs and sign clutter, and minimize distractions for motorists on public highways and streets. This Section is carried out by the approval criteria listed herein.

40.60.10. Applicability

1. Unless otherwise authorized by this Code, no person shall erect, install, construct, place, alter, change, relocate, suspend or attach any sign, except for maintenance of signs without first obtaining a permit from the City.
2. The following signs do not require permits:
 - A. Traffic and other government authorized signs, such as railroad crossing signs and notices, as may be authorized by the City.
 - B. Signs of public utility companies indicating danger, or which serve as an aid to public safety, or which show the location of underground facilities or of public telephones.
 - C. Signs not visible from public right-of-ways.

40.60.15. Application.

There is a single Sign application which is subject to the following requirements.

1. Sign.

- A. Threshold. An application for Sign permit shall be required when the following threshold applies:
 1. The erection, installation, construction, placement, alteration, relocation, suspension, attachment of any sign.

40.60.15.1.

- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for a Sign. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Sign application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Sign application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposed sign is in conformance with all requirements specified in Section 60.40 (Sign Regulations) unless the applicable provision has been subject of a Variance approval.
 5. The proposed sign is in conformance with the vision clearance standards specified in Section 60.55.50 (Intersection Standards).
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Sign shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Sign application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.60.15.1.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Sign application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:
1. All signs, together with all of their supports, braces, guys and anchors, shall be kept in good repair and be maintained in a safe, neat, clean and attractive condition, free from rust, corrosion, peeling paint or other surface deterioration.
 2. Any sign structure or supports that are no longer in use shall be removed at the time of the structure or supports cease to be used.
 3. Compliance with the conditions of approval shall be met as long as the sign exists on the property.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Sign proposal shall not be extended.

40.65. SOLAR ACCESS**40.65.05 Purpose.**

The purpose of Solar Access is to protect solar access to solar features on lots designated or used as a detached dwelling under some circumstances. It authorizes owners of such lots to apply for an approval that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee's site. This Section is carried out by the approval criteria listed herein.

40.65.10. Applicability.

The Solar Access application shall be applicable to detached dwellings in the City's standard and low density residential zoning districts.

40.65.15. Application.

There is a single Solar Access application which is subject to the following requirements.

1. Solar Access.

A. Threshold. An application for Solar Access shall be required when the following threshold applies:

1. Protection of a solar feature from being shaded is requested.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Solar Access. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Solar Access application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Solar Access application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.65.15.1.C.

3. Non-exempt vegetation on the applicant's property does not shade the solar feature.
4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Solar Access shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Solar Access application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Solar Access application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:

1. The party to whom the City grants a Solar Access approval shall cause to be recorded, the approval, legal descriptions of the properties affected by the approval, the solar access height limit, and the approved site plan in the office of the Washington County Recorder with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and pay the fees for such filing before the approval is effective.
2. If not in place at the time of the Solar Access approval, the solar feature shall be installed within one (1) year of the approval after which time, unless installation has occurred, the approval shall expire.

40.65.15.1.E.

3. An owner of property restricted by a Solar Access approval shall be responsible for and pay all costs for keeping non-exempt vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the approved site plan, vegetation an owner shows was planted in the ground on or before the date an application for a Solar Access approval is filed, and solar friendly vegetation are exempt from the Solar Access approval.

- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Solar Access proposal shall not be extended.

40.70. Repealed [ORD 4302; May 2004]**40.75. STREET VACATION****40.75.05. Purpose.**

The purpose of Street Vacation is to recognize that changes to the City's existing street system are occasionally required. Therefore, the following application has been established to allow limited changes to the City's existing street system without adversely affecting safe and efficient circulation throughout the City. A Street Vacation is a legislative action which is not subject to the 120 day rule of ORS 227.178. This Section is carried out by the approval criteria listed herein.

40.75.10. Applicability.

Alteration to the City's existing streets that involve the vacation of streets, right-of-way, easements, or both shall be reviewed by the City Council.

40.75.15. Application.

There is a single Street Vacation application which is subject to the following requirements.

1. Street Vacation.

- A. Threshold. An application for Street Vacation shall be required when the following threshold applies:
 - 1. Abandonment or otherwise vacation of an existing public transportation right-of-way or public easement that is within the City of Beaverton.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Street Vacation. The decision making authority is the City Council.
- C. Approval Criteria. In order to approve a Street Vacation application, the City Council shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Street Vacation application.

40.75.15.1.C.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposed Street Vacation meets the eligibility provisions of ORS 271.080.
4. The proposed Street Vacation will not adversely impact street connectivity as identified in the Transportation Element of the Comprehensive Plan.
5. The proposed Street Vacation will not adversely impact police, fire, and emergency service in the area.
6. That the vacation of the street will not hinder accessibility to any above ground or underground public facilities.
7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Street Vacation shall be made by the owner of property abutting the right-of-way or easement, or the owner's authorized agent, the City Council, Mayor, or their designee on a form provided by the Director and shall be filed with the Director. The Street Vacation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The City Council may impose conditions on the approval of a Street Vacation application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.45.18.B.

40.80. TEMPORARY USE**40.80.05. Purpose.**

The purpose of a Temporary Use application is to recognize that temporary uses serve a useful purpose in the life of the community. Such activity does not mandate application of the requirements relating to permanent activity, but there is the potential of adverse impact on surrounding property created by temporary activity; therefore, specific requirements are necessary. This Section is carried out by the approval criteria listed herein.

40.80.10. Applicability

Uses and activities that are determined to be temporary in nature shall be subject to the provisions of this section.

40.80.15. Application.

There are five (5) Temporary Use applications which are as follows: Temporary Mobile Sales, Temporary Non-Mobile Sales, Temporary Structure, Temporary Real Estate Office, and Non-Profit Event.

1. Temporary Mobile Sales.

- A. Threshold. An application for Temporary Mobile Sales shall be required when the following threshold applies:
 - 1. The sale of plants, flowers, books, crafts, produce, beverages, food, and other similar items in a single location for more than one (1) hour per day.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Mobile Sales. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Mobile Sales application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Temporary Mobile Sales application.

40.80.15.1.C.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
4. The proposal is located entirely within private property in a commercial, multiple use, or industrial zoning district and the applicant has written permission from the property owner to utilize the subject property for the proposal.
5. The applicant has written permission from the City if the proposal is located on a public right-of-way within any of the Regional Center and Town Center Multiple Use Zoning Districts.
6. The proposal will not pose a threat to the public safety or convenience when the temporary use is proposed to be located on a public right-of-way.
7. The use in which the proposed temporary use is engaged is listed as a permitted use in the specific commercial or multiple use zoning district.
8. The proposal will not be located within the vision clearance area of an intersection as specified under Section 60.55.50.
9. The proposal does not involve use of a permanent building.
10. The proposal shall not obstruct or occupy permanent required parking spaces unless it can be demonstrated that the permanent required parking is not being used by the permanent use located on the subject site pursuant to Section 40.55.15.3 (Excess Parking) of this Code.

40.80.15.1.C.

11. Safe vehicle and pedestrian circulation is provided consistent with Section 60.55 (Transportation Facilities) of this Code.
12. The proposal is not located within 500 feet of an established permanent business of a similar nature. The 500 feet shall be measured from the perimeter of the property on which the proposal is located to the perimeter of the property which contains the existing similar use.
13. The proposal has not been previously located on the same site in the same calendar year.
14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Temporary Mobile Sales shall be made by the owner of the proposed temporary use, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Mobile Sales application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Temporary Mobile Sales application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:

1. The Temporary Mobile Sales shall obtain a City Business License.
2. Temporary Mobile Sales involving the sale of food products shall be licensed by the appropriate State and/or local agency.
3. All Temporary Mobile Sales activities shall be conducted at the particular location authorized.

40.80.15.1.E.

4. The Temporary Mobile Sales shall not have hours of operation exceeding four (4) hours in a twenty four (24) hour period.
 5. Signage shall be permitted for Temporary Mobile Sales consistent with Section 60.40.15.12 of this Code.
 6. During operation, the operator of a Temporary Mobile Sales shall maintain a copy of the City approval and present same for inspection upon request by City personnel.
 7. Suitable receptacles for disposal of trash, as defined by the City of Beaverton Code 4.08.085, subsection C, must be provided and maintained by the permittee on the site of the temporary use in sufficient numbers, as determined by the Director, to accommodate all trash generated by the Temporary Mobile Sales. The permittee shall be responsible for disposal of accumulated trash and for clean-up of trash generated by the Temporary Mobile Sales.
 8. Products for sale shall be removed at the end of each business day.
 9. The Director may impose conditions necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.
 10. The Director may impose conditions necessary to safeguard the public health and safety and to minimize potential adverse impact created by the Temporary Mobile Sales on the surrounding property and use.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 180 days of the date of approval.
- H. Extension of a Decision. Previous approvals of Temporary Mobile Sales shall not be extended.

40.80.15.

2. Temporary Non-Mobile Sales.

- A. Threshold. An application for Temporary Non-Mobile Sales shall be required when the following threshold applies:
1. The sales of holiday vegetation and fireworks, circuses, carnivals, animal rides and other similar activities.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Non-Mobile Sales. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Non-Mobile Sales application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Temporary Non-Mobile Sales application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal is located entirely within private property in a commercial, multiple use, or industrial zoning district and the applicant has written permission from the property owner to utilize the subject property for the proposal.
 5. The applicant has written permission from the City if the proposal is located on a public right-of-way within any of the Regional Center and Town Center Multiple Use Zoning Districts.

40.80.15.2.C.

6. The use in which the proposed temporary use is engaged is listed as a permitted use in the specific commercial or multiple use zoning district.
7. The proposal will not be located within the vision clearance area of an intersection as specified under Section 60.55.50.
8. The proposal does not involve use of a permanent building.
9. The proposal shall not obstruct or occupy permanent required parking spaces unless it can be demonstrated that the permanent required parking is not being used by the permanent use located on the subject site pursuant to Section 40.55.15.3 (Excess Parking) of this Code.
10. The site of the proposal has safe vehicle and pedestrian circulation consistent with Section 60.55 (Transportation Facilities) of this Code.
11. The proposal is not located within 500 feet of an established permanent business of a similar nature. The 500 feet shall be measured from the perimeter of the property on which the proposal is located to the perimeter of the property which contains the existing similar use.
12. The site of the proposal has adequate parking facilities to accommodate the anticipated needs consistent with Section 60.30 (Off-Street Parking) of this Code.
13. Temporary Non-Mobile Sales has not occurred more than twice on the same site in the same calendar year.
14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.80.15.2.

- D. Submission Requirements. An application for a Temporary Non-Mobile Sales shall be made by the owner of the proposed temporary use, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Non-Mobile Sales application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Temporary Non-Mobile Sales application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose one or more of the following conditions when appropriate:
1. The Temporary Non-Mobile Sales shall obtain a City Business License.
 2. Temporary Non-Mobile Sales involving the sale of food products shall be licensed by the appropriate State and/or local agency.
 3. Temporary Non-Mobile Sales involving the sale of fireworks shall be licensed by the appropriate State and/or local agency.
 4. All Temporary Non-Mobile Sales activities shall be conducted at the particular authorized location.
 5. Signage shall be permitted for Temporary Non-Mobile Sales consistent with Section 60.40.15.12 of this Code.
 6. During operation, the operator of a Temporary Mobile Sales shall maintain a copy of the City approval and present same for inspection upon request by City personnel.

40.80.15.2.E.

7. Suitable receptacles for disposal of trash as defined by the City of Beaverton Code 4.08.085, subsection C, must be provided and maintained by the permittee on the site of the Temporary Non-Mobile Sales in sufficient numbers, as determined by the Director, to accommodate all trash generated by the Temporary Non-Mobile Sales use. The permittee shall be responsible for disposal of accumulated trash and for clean-up of trash generated by the Temporary Non-Mobile Sales.
8. The Director may impose conditions necessary to safeguard the public health and safety and to minimize potential adverse impact created by the Temporary Non-Mobile Sales on the surrounding property and use.

- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 45 days of the date of approval.
- H. Extension of a Decision. Approvals of Temporary Non-Mobile Sales shall not be extended.

40.80.15.

3. Temporary Structure.

- A. Threshold. An application for Temporary Structure shall be required when the following threshold applies:
1. The placement of a temporary mobile structure while development is taking place.
 2. Placement of drop-off station for non-profit organizations.
 3. A temporary wireless communication facility inclusive of needed equipment shelters and on-site improvements to facilitate continuity in service during initial construction, repair, maintenance, or replacement of permanent equipment. [ORD 4248; April 2003]
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Structure. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Structure application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Temporary Structure application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal will not be located within the vision clearance area of an intersection as specified under Section 60.55.25.
 5. Safe vehicle and pedestrian circulation is provided consistent with Section 60.55 (Transportation Facilities) of this Code.

40.80.15.3.C.

6. The site of the proposal has adequate parking facilities to accommodate the anticipated needs of the uses on the site consistent with Section 60.30 (Off-Street Parking) of this Code.
7. The proposal is for an approved development located within the City.
8. The proposal would locate a temporary mobile structure within the boundaries of the subdivision where land is for sale or under development.
9. A construction permit for the permanent development has been issued and has not expired.
10. The Temporary Structure shall be located on the same lot or a lot abutting the activity. If the abutting lot is separately owned, written authorization from the owner must be provided.
11. The Temporary Structure shall not block fire hydrants, storm drains, manholes, catch basins, or other similar infrastructure improvements.
12. No connection of the temporary structure to any water, sanitary or storm sewer utility shall be allowed unless the system(s) are deemed substantially complete by the City.
13. Occupancy for temporary sales trailers or sales offices shall not be allowed until substantial completion of the sanitary sewers is obtained, or portable toilets are available.
14. If the proposal is a drop-off station, the proposal is located in a commercial, multiple use, or industrial zoning district.
15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.80.15.3.

- D. Submission Requirements. An application for a Temporary Structure shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Structure application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Temporary Structure application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:
1. The occupant of the Temporary Structure shall obtain a City Business License.
 2. Signage shall be permitted for a Temporary Structure consistent with Section 60.40.15.12 of this Code.
 3. The Director may impose conditions as are necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.
 4. The Director may impose conditions as are necessary to safeguard the public health and safety and to minimize potential adverse impact created by the temporary use on the surrounding property and use.
 5. The Director may impose conditions as are necessary which establish a duration of time that the Temporary Structure may be located on the subject site.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 2 years of the date of approval unless otherwise specified by the Director.
- H. Extension of a Decision. Refer to Section 50.93.

40.80.15.

4. Temporary Real Estate Office.

- A. Threshold. An application for Temporary Real Estate Office shall be required when the following threshold applies:
1. The use of a dwelling as a Temporary Real Estate Office during the development, lease or sale of lots or structures in a residential subdivision, condominium project, or residential Planned Unit Development.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Real Estate Office. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Real Estate Office application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Temporary Real Estate Office application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The applicant, if different from the property owner, has written permission from the property owner to utilize the property for a Temporary Real Estate Office.
 5. The Temporary Real Estate Office is located within the boundaries of the residential development.
 6. The property used for the Temporary Real Estate Office shall not be permanently improved for that purpose.

40.80.15.4.C.

7. The property used for the Temporary Real Estate Office shall be within close proximity to an arterial or collector or as acceptable to the City Engineer.
8. All streets shall be curbed and paved (with a minimum first lift of asphalt or cement concrete) to the property used for the Temporary Real Estate Office.
9. No connection of the Temporary Real Estate Office to any water, sanitary or storm sewer utility shall be allowed unless the system(s) are deemed substantially complete
10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Temporary Real Estate Office shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Real Estate Office application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Temporary Real Estate Office application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:

1. The Temporary Real Estate Office shall obtain a City Business License.
2. All Temporary Real Estate Office activities shall be conducted at the particular location authorized.
3. Signage shall be permitted for a Temporary Real Estate Office consistent with Section 60.40.15.12 of this Code.

40.80.15.4.E.

4. The Director may impose conditions as are necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.
5. The Director may impose conditions as are necessary to safeguard the public health and safety and to minimize potential adverse impact created by the Temporary Real Estate Office on the surrounding property and use.
6. The Director may impose conditions as are necessary which establish a duration of time that the Temporary Real Estate Office may be located on the subject site.

- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 2 years of the date of approval unless otherwise specified by the Director.
- H. Extension of a Decision. Refer to Section 50.93.

40.80.15.

5. Non-Profit Event.

- A. Threshold. An application for Non-Profit Event shall be required when the following threshold applies:
1. The temporary use of land in order to conduct an event 15 days or more in one (1) calendar year.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Non-Profit Event. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Non-Profit Event application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Non-Profit Event application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal is operated by a non-profit organization registered with the State of Oregon pursuant to Chapter 65 of the Oregon Revised Statutes or is operated by a public agency.
 5. The proposal is located entirely within public or private property within a commercial, industrial, or multiple use zoning district and the applicant has written permission from the property owner to utilize the subject property for the proposal.

40.80.15.5.C.

6. The proposal is located on a public right-of-way within any of the Regional Center and Town Center Multiple Use Zoning Districts and the applicant has written permission from the City.
7. Safe vehicle and pedestrian circulation is provided consistent with Section 60.55 (Transportation Facilities) of this Code.
8. The proposal does not involve use of a permanent building.
9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Non-Profit Event shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Non-Profit Event application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Non-Profit Event application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:

1. Signage shall be permitted consistent with Section 60.40.15.12 of this Code.
2. The Director may impose conditions as are necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.

40.80.15.5.E.

3. The Director may impose conditions as are necessary to safeguard the public health and safety and to minimize potential adverse impact created by the temporary use on the surrounding property and use.
4. The Director may impose conditions as are necessary which establish hours of operation.
5. The Director may impose conditions as are necessary to ensure that noise levels meet the standards established by the State of Oregon Department of Environmental Quality

F. Appeal of a Decision. Refer to Section 50.60.

G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 2 years of the date of approval unless otherwise specified by the Director.

H. Extension of a Decision. Refer to Section 50.93.

40.85. TEXT AMENDMENT**40.85.05. Purpose.**

The purpose of a Text Amendment application is to provide a mechanism for legislative amendments to the Development Code. It is recognized that such amendments may be necessary from time to time to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in the law. This Section is carried out by the approval criteria listed herein.

40.85.10. Applicability.

The Text Amendment application shall apply to any change to Development Code text or diagrams.

40.85.15. Application.

There is a single Text Amendment application which is subject to the following requirements.

1. Text Amendment.

- A. Threshold. An application for Text Amendment shall be required when the following threshold applies:
 - 1. Any change to the Development Code, excluding changes to the zoning map.
- B. Procedure Type. The Type 4 procedure, as described in Section 50.50 of this Code, shall apply to an application for Text Amendment. Upon determination by the Director, the decision making authority shall be either the Planning Commission or the Board of Design Review. The determination will be based upon the proposal.
- C. Approval Criteria. In order to approve a Text Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Text Amendment application.

40.85.15.1.C.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.
4. The proposed text amendment is consistent with the City's Comprehensive Plan.
5. The proposed text amendment is consistent with other provisions within the City's Development Code.
6. The proposed amendment is consistent with all applicable City ordinance requirements and regulations.
7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for Text Amendment to the City's Development Code shall be initiated by the City Council, Mayor, the Director, or any interested person on a form provided by the Director and shall be filed with the Director. The Text Amendment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Appeal of a Decision. Refer to Section 50.75.

40.90. TREE PLAN**40.90.05. Purpose**

The purpose of a Tree Plan application is to provide a mechanism to regulate pruning, removal, replacement, and mitigation for removal of significant and historic tree and grove, landscape tree, street tree, and community trees thus helping to preserve and enhance the sustainability of the City's urban forest. This Section is carried out by the approval criteria listed herein.

40.90.10. Applicability.

Different types of resources require different levels of protection. No Tree Plan is required for the following actions:

1. Removal of up to four (4) community trees within an one (1) calendar year period. Properties one-half acre or less in size developed with a detached dwelling may remove any number of community trees.
2. Removal of any hazardous tree or a portion of a hazardous tree when the tree is identified as such by the City Arborist and the removal is required by the City. The removal of the tree is subject to the mitigation requirements of Section 60.60 (Trees and Vegetation) of this Code.
3. Pruning of trees consistent with the Vision Clearance requirements of Section 60.55.50.
4. Pruning of trees by the utility provider for above ground utility power lines following acceptable arboricultural standards and practices.

40.90.15. Application.

There are four (4) Tree Plan applications which are as follows: Tree Plan One, Tree Plan Two, Tree Plan Three, and Tree Plan Four.

40.90.15.

1. Tree Plan One.

- A. Threshold. An application for Tree Plan One shall be required when none of the actions listed in Section 40.90.10 apply and one or more of the following thresholds apply:
1. Minor pruning of a Significant Tree, Significant Grove, Landscape Tree, tree within a Significant Natural Resource Area (SNRA), Historic tree, or Street Tree once within an one year period.
 2. Removal of up to and including five (5) Landscape Trees or Street Trees on a site within a one year period.
 3. Removal or pruning of a Significant Tree, Significant Grove, Landscape Tree, tree within a Significant Natural Resource Area (SNRA), a Historic Tree, a Street Tree, or part thereof, that constitutes or creates a hazardous condition. Pruning to eliminate a hazardous condition may exceed minor pruning.
 4. Removal of noxious vegetation, re-planting of trees and shrubs, or both within a SNRA, land designated as significant on the City's Local Wetland Inventory, or sensitive area as defined by Clean Water Services.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Tree Plan One. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Tree Plan One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.90.15.1.C.

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
4. If applicable, it is necessary to prune or remove a tree that poses a safety hazard to pedestrians, vehicular traffic, adjacent property, or the general public or that threatens to cause disruption of public service and at least one of the following exist:
 - a. The tree or portion of the tree is certified by a qualified professional as dead or dying.
 - b. A portion of the tree is only partially attached.
 - c. The tree or a portion of the tree has been damaged by a storm, fire, age, or accident and is physically lodged or leaning against a building, transportation facility, or overhead utility line or pole.
5. If applicable, pruning a tree will result in removal of no more than 20% of the tree's canopy or disturbance of no more than 10% of the root system. The pruning is needed to improve tree health or to eliminate conflicts with vehicles or structures which includes, but is not limited to, underground utilities and street improvements.
6. If applicable, removal of a landscape tree or street tree or pruning of a tree is necessary to accommodate development where variances to setback provisions of the Development Code will not allow the tree to be saved.
7. If applicable, emergency removal or pruning is necessary due to an immediate threat to public safety documented by photographic evidence supplied by the applicant.
8. Removal of a tree or grove shall not increase erosion or any resulting erosion shall be controlled consistent with City and Clean Water Services regulations.
9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.90.15.1.

- D. Submission Requirements. An application for a Tree Plan One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan One application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Tree Plan One proposal shall not be extended.

40.90.15.

2. Tree Plan Two

- A. Threshold. An application for Tree Plan Two shall be required when none of the actions listed in Section 40.90.10 apply, none of the thresholds listed in Section 40.90.15.1 apply, and one or more of the following thresholds apply:
1. Major pruning of a non-hazardous Significant Tree, Significant Grove, Trees within a Significant Natural Resource Area (SNRA), Historic Trees, Landscape Trees, or Street Trees once within a one (1) calendar year period.
 2. Removal of more than five (5) and up to and including ten (10) Landscape Trees or Street Trees on a site within a one calendar year period.
 3. Removal of five (5) or more Community Trees within a one calendar year period on properties more than one-half acre in size.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Tree Plan Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Tree Plan Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. If applicable, pruning of any tree or removal of a landscape, street, or community tree is necessary to enhance the health of the tree, grove, group of trees, or an adjacent tree or to eliminate conflicts with structures or vehicles.

40.90.15.2.C.

4. If applicable, it is necessary to remove diseased of landscape, street, or community trees or trees weakened by age, storm, fire, or other condition.
5. If applicable, pruning of any tree or removal of a landscape, street, or community tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
6. If applicable, pruning of any tree or removal of a landscape, street, or community tree is necessary to accommodate development where no reasonable alternative exists for the development at another location on the site, or where variances to setback provisions of this Code will cause other undesirable circumstances on the site or adjacent properties if the tree is saved.
7. If applicable, removal of a landscape tree or street tree or pruning of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.
8. If applicable, removal of landscape, street, or community tree is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.
9. Removal of a tree or grove shall not increase erosion or any resulting erosion shall be controlled consistent with City and Clean Water Services regulations.
10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.90.15.2.

- D. Submission Requirements. An application for a Tree Plan Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Two application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Tree Plan Two proposal shall not be extended.

40.90.15.

3. Tree Plan Three

- A. Threshold. An application for Tree Plan Three shall be required when none of the actions listed in Section 40.90.10 or none of the thresholds listed in Section 40.90.15.1 or Section 40.90.15.2 apply and one or more of the following thresholds apply:
1. Removal of up to and including ninety five percent (95%) of trees within a Significant Natural Resource Area (SNRA).
 2. Removal of an individual Historic Tree, a tree within a Historic Grove, or a Historic Grove.
 3. Removal of a Significant Tree, Grove, or portion thereof.
 4. Removal of more than ten (10) Landscape or Street Trees.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Tree Plan Three. Upon determination by the Director, the decision making authority shall be either the Planning Commission or the Board of Design Review. The determination will be based upon the proposal.
- C. Approval Criteria. In order to approve a Tree Plan Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. If applicable, removal of a diseased tree or a tree is necessary because the tree has been weakened by age, storm, fire, or other condition.

40.90.15.3.C.

4. If applicable, removal is necessary to enhance the health of the tree, grove, or adjacent tree to reduce maintenance, or to eliminate conflicts with structures or vehicles.
5. If applicable, removal is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
6. If applicable, removal is necessary to accommodate development where no reasonable alternative exists for the development at another location on the site, or where variances to setback provisions of the Development Code will not allow the tree to be saved or will cause other undesirable circumstances on the site or adjacent properties.
7. If applicable, removal is necessary because a tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or on an adjacent site, or that pruning in excess of 20 percent of the canopy is required to prevent damage to such improvements or property.
8. If applicable, removal is necessary to accomplish a public purposes, such as installation of public utilities, street widening, and similar needs where no reasonable alternative exists without significantly increasing public costs or reducing safety.
9. Removal of a tree or grove shall not increase erosion or resulting erosion shall be controlled consistent with City and Clean Water Services regulations.
10. If applicable, removal of a tree within a SNRA will not substantially reduce the significance of the natural resource.

40.90.15.3.C.

11. If applicable, removal of a Significant Tree or tree within a Significant Grove will not eliminate the significance of the grove based upon the original Significant Tree and Grove Inventory analysis.
 12. If applicable, removal of a tree or trees within a SNRA will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.
 13. If applicable, removal of tree or trees within a Significant Grove will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.
 14. If applicable, removal of a tree within a Historic Grove will not substantially reduce the significance of the grove in terms of its original designation on the list of Historic Groves.
 15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Tree Plan Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Three application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), any other information identified through a Pre-Application Conference, and by a report from a qualified professional.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Three application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).

40.90.15.3.

- F. Compliance with Approval. All conditions imposed on an approved Tree Plan Three shall be implemented prior to the removal, pruning, or planting of tree unless otherwise noted in the approval. Compliance with the conditions of approval shall be met as long as the tree exist unless otherwise specified or until modified through a City approval process.
- G. Appeal of a Decision. Refer to Section 50.70.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Previous approval of Tree Plan Three proposal shall not be extended.

40.90.15.

4. Tree Plan Four

- A. Threshold. An application for Tree Plan Four shall be required when none of the actions listed in Section 40.90.10 or none of the thresholds listed in Section 40.90.15.1 through Section 40.90.15.3 apply and when the following threshold applies:
 - 1. Removal of more than ninety five percent (95%) of trees within a Significant Natural Resource Area (SNRA).
- B. Procedure Type. The Tree Plan Four application is a Comprehensive Plan Amendment application. The procedures and criteria specified in Chapter One of the Comprehensive Plan shall apply.

40.95. VARIANCE**40.95.05. Purpose.**

The purpose of a Variance application is to provide for the consideration of varying from the applicable provisions of this Code where it can be shown that, owing to special and unusual circumstances, the literal interpretation of these provisions would cause an undue or unnecessary hardship without a corresponding public benefit. This Section is carried out by the approval criteria listed herein.

40.95.10. Applicability.

A Variance application may only be requested for those proposals that request a variance of more than fifty percent (50%) from the numerical Site Development Requirements contained in Chapter 20 (Land Uses) or any numerical requirements contained in Section 60.30 (Off-Street Parking), Section 60.40 (Sign Regulations), and Section 60.55 (Transportation Facilities), excluding Section 60.55.30.

40.95.15. Application.

There is a single Variance application which is subject to the following requirements.

1. Variance.

A. Threshold. An application for Variance shall be required when the following threshold applies:

1. A change of more than fifty percent (50%) to the numerical standards specified in the Site Development Requirements contained in Chapter 20 (Land Uses).
2. Any change from the numerical requirements contained in Section 60.30 (Off-Street Parking).
3. Any change from the numerical requirements contained in Section 60.40 (Sign Regulations).
4. Excluding Section 60.55.30, any change from the numerical requirements contained in Section 60.55 (Transportation Facilities).

40.95.15.1.C.

5. A change of more than fifty percent (50%) to the numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.E.3. [ORD 4265; September 2003]

B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Variance. Upon determination by the Director, the decision making authority shall be either the Planning Commission or the Board of Design Review. The determination will be based upon the proposal.

C. Approval Criteria. In order to approve a Variance application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Variance application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. Special conditions exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings, or structures in the same zoning district.
4. Strict interpretation of the provisions of this ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district under the terms of this Code.
5. The special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute financial hardship or inconvenience.

40.95.15.1.C.

6. If more than one (1) variance is being requested, the cumulative effect of the variances result in a project which is still consistent with the overall purpose of the applicable zone.
7. Any variance granted shall be the minimum variance that will make possible a reasonable use of land, building, and structures.
8. For a proposal for a variance from sign regulations, no variance shall be granted unless it can be shown that there are special circumstances involving size, shape, topography, location or surroundings attached to the property referred to in the application, which do not apply generally to other properties in the same zoning district, and that the granting of the variance will not result in material damage or prejudice to other property in the vicinity and not be detrimental to the public safety and welfare. Variances shall not be granted merely for the convenience of the applicant or for the convenience of regional or national businesses which wish to use a standard sign.
9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for a Variance shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Variance application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.95.15.1.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Variance application to ensure compliance with the approval criteria. When considering a Variance application to the numerical sign regulations in Section 60.40 (Sign Regulations), the decision making authority shall review all of the existing or proposed signs for the development. The decision making authority may also impose other conditions of approval to require:
1. Removal or alteration of conforming or nonconforming signs to achieve compliance with the standards contained in Section 60.40 (Sign Regulations).
 2. Removal or alteration of conforming or nonconforming signs in order to establish a consistent sign design throughout the development.
 3. Sign permit applications for signs erected without permits or removal of such illegal signs.
- G. Appeal of a Decision. Refer to Section 50.70.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Refer to Section 50.93.

40.96 WIRELESS FACILITY [ORD 4332; November 2004]**40.96.05. Purpose.**

The purpose of the wireless facility application is to ensure the review and implementation of the regulations for the construction and use of wireless communication facilities in the City of Beaverton. The section is consistent with the federal Telecommunications Reform Act of 1996 and is intended to minimize potential adverse visual, aesthetic, and safety impacts of wireless communication facilities on residential neighborhoods, and on the community as a whole by establishing review standards for the use, placement, and design of wireless communication facilities. This Section is carried out by the approval criteria listed herein.

40.96.10. Applicability.

The development, installation, and modification of wireless facilities listed in Chapter 20 (Land Uses) for each zoning district shall be subject to the provisions of this section.

40.96.15. Application.

There are three (3) Wireless Facility applications which are as follows: Wireless Facility One, Wireless Facility Two, and Wireless Facility Three.

1. Wireless Facility One.

A. Threshold. An application for Wireless Facility One shall be required when one or more of the following thresholds apply:

1. In any zoning district, collocation of a new wireless communication facility on an existing wireless communication tower that does not exceed the maximum height standard for wireless communications facilities of the underlying zoning district.
2. In any zoning district, incorporation of wireless communication facilities into the architectural features of existing or new buildings or structures that are not exclusively used for single-family residential or multi-family residential purposes, and that utilize stealth design.

40.96.15.1.A.

3. In any zoning district, attachment of wireless communications facilities to existing structures consistent with the provisions of Section 60.70.35.13.
 4. In industrial zoning districts, up to and including two (2)) satellite antennas less than five (5) meters in diameter on one (1) lot.
 5. In commercial zoning districts, up to and including two (2) satellite antennas more than two (2) meters in diameter on one (1) lot.
 6. In any zoning district, installation of one (1) replacement tower on a parent parcel containing an existing tower supporting one (1) carrier for the purpose of providing collocation opportunity consistent with previous land use approvals.
 7. In any zoning district, attachment of antennas to tower structures or pole structures other than those used for cellular phone service.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Wireless Facility One. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Wireless Facility One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Wireless Facility One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

40.96.15.1.C.

4. The proposal meets all applicable Site Development Requirements of Sections 20.05.50, 20.10.50, 20.15.50, and 20.20.50 of this Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
 5. The proposal complies with all applicable provisions in Chapter 60 (Special Regulations).
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Wireless Facility One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility One application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.96.15.

2. Wireless Facility Two.

- A. Threshold. An application for Wireless Facility Two shall be required when one or more of the following thresholds apply:
1. In all industrial zoning districts, construction of a wireless communication facility tower.
 2. In any zoning district, attachment of a new wireless communication facility to existing or new buildings or structures provided that these buildings and structures are not exclusively used for single-family or multi-family residential purposes, and stealth design is utilized.
 3. In industrial zoning districts, attachment of a wireless communication facility to an existing or new building or structure not utilizing stealth design.
 4. In commercial and industrial zoning districts, direct-to-home satellite service having antennas greater than one (1) meter in diameter.
 5. In multiple use zoning districts, up to and including three (3) satellite antennas greater than two (2) meters in diameter on one (1) lot.
 6. In industrial zoning districts, three (3) and up to and including five (5) satellite antennas greater than five (5) meters in diameter on one (1) lot.
 7. In commercial zoning districts, up to and including five (5) satellite antennas greater than two (2) meters in diameter on one (1) lot.
 8. In any zoning district, and subject to the approval of an Adjustment or Variance, collocation of a new wireless communication facility inclusive of antennas on an existing wireless communication facility tower that exceeds the maximum height standard for wireless communications facilities of the underlying zoning district.

40.96.15.2.A.

9. In any zoning district, above-ground installation of equipment for wireless communication facilities on streetlights, or traffic signal lights, or high voltage power utility poles, within the road right-of-way of designated Freeways and Arterial streets.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Wireless Facility Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Wireless Facility Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Wireless Facility Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 4. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.
 5. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species.
 6. That grading of the site shall take place with particular attention to minimizing the possible adverse effect of grading on the natural vegetation and physical appearance of the site.

40.96.15.2.C.

7. That the quality, location, size and aesthetic design of walls, fences, berms, hedges, screen planting and landscape areas have minimal adverse effect on existing or approved abutting land uses.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Wireless Facility Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility Two application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.96.15.

3. Wireless Facility Three.

- A. Threshold. An application for Wireless Facility Three shall be required when the following threshold applies:
1. In all zoning districts, except industrial, construction of a wireless communication facility tower.
 2. A wireless communication facility tower proposed to be set back less than fifty (50) feet from abutting residential, or multiple use zoning districts.
 3. In industrial zoning districts, attachment of a new wireless communication facility to an existing or new building or structure that does not utilize stealth design.
 4. In residential and multiple use zoning districts, direct-to-home satellite service having antennas greater than one (1) meter in diameter.
 5. In multiple use zoning districts, more than three (3) satellite antennas greater than two (2) meters in diameter on one (1) lot.
 6. In commercial zoning districts, more than five (5) satellite antennas greater than two (2) meters in diameter on one (1) lot.
 7. In industrial zoning districts, more than five (5) satellite antennas greater than five (5) meters in diameter on one (1) lot.
 8. In any zoning district, above-ground installation of equipment for wireless communication facilities on streetlights, or traffic signal lights, or high voltage power utility poles within the road right-of-way of designated Collector Streets, Neighborhood Route Streets, or Local Streets.

40.96.15.3.

- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Wireless Facility Three. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Wireless Facility Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Wireless Facility Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. In relationship to the existing surroundings and future allowed uses, the location, size, shape, height, spatial and visual arrangement of the use and structure is compatible.
 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 5. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.
 6. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species.
 7. That grading of the site shall take place with particular attention to minimizing the possible adverse effect of grading on the natural vegetation and physical appearance of the site.

40.96.15.3.C.

8. That the quality, location, size and aesthetic design of walls, fences, berms, hedges, screen planting and landscape areas have minimal adverse effect on existing or approved abutting land uses.
 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Wireless Facility Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Wireless Facility Three application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Wireless Facility Three application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.97. ZONING MAP AMENDMENT

40.97.05. Purpose.

The purpose of a Zoning Map Amendment application is to provide for the consideration of legislative and quasi-judicial amendments to the zoning map. Legislative amendments to the zoning map are amendments of generally large size, diversity of ownership or of interest to a large geographic area. Quasi-judicial amendments to the zoning map are amendments that are generally small in size, single ownership or affect only a relatively small geographic area. Annexation related amendments to the zoning map are those amendments, whether legislative or quasi-judicial, which are associated with land being annexed into the City. It is recognized that such amendments may be necessary from time to time to reflect changing community conditions, needs, and desires. This Section is carried out by the approval criteria listed herein.

40.97.10. Applicability.

The provisions of this section shall apply to a change of the zoning designation for parcels of land within the City.

40.97.15. Application.

There are four (4) Zoning Map Amendment applications which are as follows: Quasi-Judicial Zoning Map Amendment, Legislative Zoning Map Amendment, Non-Discretionary Annexation Related Zoning Map Amendment and Discretionary Annexation Related Zoning Map Amendment. The Director shall determine if a zone change is quasi-judicial or legislative. For annexation related zone change applications, the Director shall determine if the applications are discretionary or non-discretionary.

1. Quasi-Judicial Zoning Map Amendment.

- A. Threshold. An application for Quasi-Judicial Zoning Map Amendment shall be required when the following threshold applies:
 - 1. The change of zoning designation for a specific property or limited number of specific properties.

40.97.15.1

- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Quasi-Judicial Zoning Map Amendment. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Quasi-Judicial Zoning Map Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Quasi-Judicial Zoning Map Amendment application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal conforms with applicable policies of the City's Comprehensive Plan.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
 5. In addition to the criteria stated in Section 40.97.15.1.C.1 through 4, above, the following criteria shall apply to Quasi-Judicial Zoning Map Amendment which would change the zone designation to the Convenience Service (C-V) zoning district.
 - a. There is a public need for the proposal and that this need will be served by changing the zoning district classification of the property in question as compared with other available property.
 - b. The public interest is best carried out by approving the proposal at this time.

40.97.15.1.C.

6. The proposal shall include a Traffic Impact Analysis that meets the requirements of 60.55.20. The analysis shall demonstrate that development allowed under the proposed zoning can meet the requirements of 60.55.10.1, 60.55.10.2, 60.55.10.3, and 60.55.10.7. The analysis shall identify the traffic impacts from the range of uses allowed under the proposed zoning and demonstrate that these impacts can be reasonably mitigated at the time of development. [ORD 4302; May 2004]
 7. As an alternative to 40.97.15.1.C.6, the applicant may provide evidence that the potential traffic impacts from development under the proposed zoning are no greater than potential impacts from development under existing zoning. [ORD 4302; May 2004]
- D. Submission Requirements. An application for Quasi-Judicial Zoning Map Amendment to the City's zoning map shall be made by the owner of the subject property, or the owner's authorized agent, the City Council, Mayor, or their designee on a form provided by the Director. All Quasi-Judicial Zoning Map Amendment applications shall be filed with the Director and shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Appeal of a Decision. Refer to Section 50.70.

40.97.15.

2. Legislative Zoning Map Amendment.

- A. Threshold. An application for Legislative Zoning Map Amendment shall be required when the following threshold applies:
1. The change of zoning designation for a large number of properties.
- B. Procedure Type. The Type 4 procedure, as described in Section 50.50 of this Code, shall apply to an application for Legislative Zoning Map Amendment. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Legislative Zoning Map Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Legislative Zoning Map Amendment application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal conforms with applicable policies of the City's Comprehensive Plan.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
 5. In addition to the criteria stated in Section 40.97.15.2.C.1 through 4, above, the following criteria shall apply to Legislative Zoning Map Amendment which would change the zone designation to the Convenience Service (C-V) zoning district.

40.97.15.2.C.5.

- a. There is a public need for the proposal and that this need will be served by changing the zoning district classification of the property in question as compared with other available property.
- b. The public interest is best carried out by approving the proposal at this time.

- D. Submission Requirements. An application for Legislative Zoning Map Amendment to the City's zoning map may be initiated by the City Council, Mayor, or their designee. All Legislative Zoning Map Amendment applications shall be filed with the Director and shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Appeal of a Decision. Refer to Section 50.75.

40.97.15.

3. Non-Discretionary Annexation Related Zoning Map Amendment.

- A. Threshold. An application for Annexation Related Zoning Map Amendment shall be required when one or more of the following thresholds apply:
1. The change of zoning to a City zoning designation as a result of annexation of land into the City.
 2. The Urban Planning Area Agreement (UPAA) is specific as to the City zoning designation to be applied to the parcel being annexed and does not allow for discretion.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Non-Discretionary Annexation Related Zoning Map Amendment to the City's zoning map. The decision making authority is the City Council.
- C. Approval Criteria. In order to approve a Non-Discretionary Annexation Related Zoning Map Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposed zoning designation is consistent with the Washington County - Beaverton UPAA.

40.97.15.3.C.

5. Applications and documents related to the request, which will require further City approval, have been submitted to the City in the proper sequence.

- D. Submission Requirements. An application for a Non-Discretionary Annexation Related Zoning Map Amendment shall be made by the submittal of a valid annexation petition or an executed annexation agreement. [ORD 4265; September 2003]

40.97.15.

4. Discretionary Annexation Related Zoning Map Amendment.

- A. Threshold. An application for Discretionary Annexation Related Zoning Map Amendment shall be required when the following threshold applies:
 - 1. The change of zoning to a City zoning designation as a result of annexation of land into the City and the Urban Planning Area Agreement (UPAA) does not specify a particular corresponding City zoning designation and discretion is required to determine the most similar City zoning designation.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Discretionary Annexation Related Zoning Map Amendment to the City's zoning map. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Discretionary Annexation Related Zoning Map Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Discretionary Annexation Related Zoning Map Amendment application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The proposed zoning designation most closely approximates the density, use provisions, and development standards of the Washington County designation which applied to the subject property prior to annexation.
 - 4. The proposed zoning designation is consistent with any guidance contained within the UPAA concerning the application of non-specified zoning district designations.

40.97.15.4.C.

5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Discretionary Annexation Related Zoning Map Amendment shall be made by the submittal of a valid annexation petition or an executed annexation agreement. [ORD 4265; September 2003]

E. Appeal of a Decision. Refer to Section 50.70